



Bay of Plenty Regional Council Proposed Flood Protection  
and Drainage Bylaws 2020

**Full Submissions List and Council responses**  
**December 2020**



## Full Submissions and Council Responses:

<b>Submission ID:</b>	<b>0001 (Web ID: 18180)</b>
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?	yes
Did you know about the Bylaws before today?	yes
Comments	Your letter of 24/03/2020 first advice. Website good-easy to follow.
Were you aware that the Bylaws could affect you?	No
Which change(s) affect you? Ploughing? Earthworks? Horticulture infrastructure? BAA increases?	Ploughing, Bylaw applicable area increases
Other?	Ploughing definitely but depends on what is encompassed by earthworks
Do you agree that Council should have regulation for protecting flood assets?	yes
Comment	
BAA changes	<p>We are maize farmers at 108 College Rd Edgecumbe. Some of our land is likely within the proposed 200 metres from the Rangitāiki River. Obviously we are ploughing and otherwise working the land annually. This work is in particular very much climate, and machinery and contractor dependent. There are other factors that determine when necessary work is carried out. Flexibility as in all day to day farming issues is imperative. All farming is not dictated to by set hours.</p> <p>Is it really proportionate and necessary to have another consent issue to manage to carry out necessary ploughing of the land? All the more so when we have been working the land for many years now without any suggestion that this creates risk to flood protection.</p> <p>We request that BOPRC reconsider either the definition of work encompassed in the 200 metres limit to exclude accepted farming practices, or reduce the distance limit so as not to adversely impact farmers as referred to above. Thank you.</p>
Additional rules for pumiceous soils	not known if this applies to our land
Additional Floodways	

Stock restrictions in drains			
Other comments		Agree with the need to protect assets and our environment. CV 19 is Nature warning that we must do better. But we only achieve buy in on this if bylaws are reasonable and take into account the realities of accepted good farming practices and not seek to put a further burden on food supply. All the more so where there is no or minimal evidence to support the proposition being advanced as relates to a particular property.	
Staff Response:			
Point 1:	We request that BOPRC reconsider the definition of work encompassed in the 200m BAA of Rangitāiki to exclude accepted farming practice so as not to adversely affect farmers	<p>The term ‘accepted farming practice’, sometime called ‘good farming practice’, can be defined differently depending on the sector. Often these differing definitions are developed with one goal in mind, for example water quality, and may not address the integrity of flood protection and drainage assets. This diversity of ‘practice’ may not necessarily support the purpose of the Bylaws.</p> <p>Independent engineering advice given to Council (ICE Geo &amp; Civil, 2020) outlines the potential failure risk ploughing creates close to Council assets which are present to protect surrounding land from flooding in high rainfall situations. The advice outlines the effect ploughing has on the heave potential of surface silt layers when rivers are in flood. Soil heave can result in piping of the underlying sand/pumice layers which in turn can contribute to asset failure. The premise of the ploughing specific rules in the Bylaws is for Council to work with the landowner/lessee to develop specific mitigation measures at specific sites with Bylaw Applicable Areas.</p>	<b>Decline</b>
Point 2:	Bylaws need to take into account the realities of accepted good farming practice - all the more so where is no or minimal evidence to support the proposition being advanced as it relates to particular property.	<p><i>A Flood Protection and Drainage Bylaws Technical Report</i> is available on the BOPRC website. This report details the rationale for developing the new Bylaw applicable Areas. Staff except that Bylaws in relation to a particular site would need site specific survey an engineering advice and as mentioned above the premise of specific rules in the Bylaws is for Council to work with the landowner/lessee to develop bespoke mitigation measures at specific sites with Bylaw Applicable Areas.</p>	<b>Decline in Part</b>

<b>Submission ID:</b>	<b>0002 (Web ID: 18232)</b>
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?	yes
Did you know about the Bylaws before today?	yes
Comments	I am a consultant representing Creswell. Creswell had obtained prior Floodway and Drainage Bylaw Authority approval from Bay of Plenty Regional Council (BOPRC) for a range of activities for their development at 57 Johnson Road, Otakiri.
Were you aware that the Bylaws could affect you?	No. Creswell were not aware that the changes to the Floodway and Drainage Bylaws would have an effect on their recently approved application from BOPRC.
Which change(s) affect you? Ploughing? Earthworks? Horticulture infrastructure? BAA increases?	Bylaw applicable area increases
Other?	
Do you agree that Council should have regulation for protecting flood assets?	It is agreed that Council should have regulations for protecting flood assets, however the below are Creswell's concerns over the changes made to the bylaws.
Comment	
BAA changes	<p>The following bylaw clauses will have an effect on Creswell's approved development (approval under the bylaw has been granted by the BOPRC):</p> <p>Part 1: Bylaws applying to all drains, defences against water, erosion protection works and floodways managed by, or under control of the BOBRC</p> <p>5.1.1(e) "No person will plant, or allow to grow, any tree, shrub, hedge, or any part thereof, within 12 metres of a drain (measured from the lip of the drain)</p> <p>The approved Creswell development has a drain adjacent to their boundary located on the neighbouring property to which it is proposed that stormwater from their site will be discharged. A stormwater detention pond is proposed near this boundary, and planting is proposed to occur between the detention pond and boundary to mitigate against adverse visual and ecological effects. A screen hedge along the boundary is proposed as a condition of consent that will be approximately 3 m from the lip of the drain. This will conflict with this bylaw due to the 12m setback component of the bylaw. In addition, the ecological assessment prepared for the proposal has recommended that there be riparian planting along the bank of the drain to provide suitable in-drain habitat. This planting would be of suitable tree and shrub species.</p> <p>5.2.1(b)(iii) "No person will plant or allow to grow any shrub, hedge, tree or part thereof within</p>

	<p>12 metres of the landward toe of any defence against water</p> <p>The proposed Creswell development has been appealed to the High Court. However, the BOPRC has provided approval to undertake earthworks close to the stopbank along the rear boundary adjacent to the Tarawera River and a screen hedge is also proposed along this boundary. Any boundary/screening planting along this boundary has the potential to conflict with this 12m setback component of the bylaw.</p> <p>5.2.1(g)(iii) “No person will carry out earthworks including for building foundation or digging a drain in the specified Bylaw applicable area of any defence against water (Tarawera River = 120m)</p> <p>A large portion of the Creswell development is within 120m of the Tarawera River stopbank. The current approval is for earthworks and wastewater discharge within 60 m of the toe of the stopbank. Creswell seeks confirmation that having obtained the BOPRC approval for this work no further approval will be required.</p>		
Additional rules for pumiceous soils			
Additional Floodways			
Stock restrictions in drains			
Other comments	<p>There is little explanation within the bylaws as to why the distances imposed in the bylaw have been selected. For example, the 12m default setback for planting along drains and the 120 m distance from the toe of a stopbank.</p> <p>Previous advice has been that riparian planting along the edge of a drain is a positive effect on the environment as it provides in-drain habitat more suitable for aquatic species.</p> <p>Similarly, the doubling of setback from the toe of the stopbanks is not explained.</p> <p>Further explanation and justification for these setbacks would be appreciated.</p>		
<b>Staff Response:</b>			
Point 1:	Creswell seeks confirmation that having obtained the BOPRC approval for this work no further approval will be required.	Staff are working directly with representatives of Creswell to work through their current Bylaw Authority and any new Authority they may need given they have yet to start works on their property.	<b>Comment Noted</b>

<b>Submission ID:</b>	<b>0003 (Submission withdrawn 4 May 2020)</b>

<b>Submission ID:</b>	<b>0004 (Web ID: 18273)</b>
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?	No
Did you know about the Bylaws before today?	No
Comments	I have not received any information to my knowledge about the proposal. I was contacted by an interested party to see if I had sent in my submission.
Were you aware that the Bylaws could affect you?	No, No prior communication with me whatsoever.
Which change(s) affect you? Ploughing? Earthworks? Horticulture infrastructure? BAA increases?	Bylaw applicable area increases
Other?	
Do you agree that Council should have regulation for protecting flood assets?	Sensible considered regulation yes with a large amount of input from landowners who have resided in the area for at least 60 - 70 years. These landowners/ratepayers have the knowledge and history to give considered, rational, points of view rather than a technical expert.
Comment	
BAA changes	If the bylaw is implemented the area I lease would be cut by a third and as a contractor supplying supplement to the primary industry sector this would make the remainder area less sustainable. Cultivation of the land is no greater than 300mm so we maintain the structure of the soil. The area removed would be approximately five hectares that we would be unable to cultivate if this bylaw is instigated.
Additional rules for pumiceous soils	There is no pumice in the Lower Kaituna River catchment area. There is river silt which came down from the flooding hundreds of years prior to the river being straightened and stop banked in the 1980s. Plus in 1982 a control gate was built at Okere Falls (which is the head of the Kaituna River), so Bay of Plenty Regional Council have full control over any flooding coming

		from the Rotorua catchment. There has been no issue with the so called pumiceous soils in 37 years so why is it a problem now?	
Additional Floodways		Bay of Plenty Regional Council have total control over the flooding of the whole Kaituna River catchment with the Okere Falls control gates so additional floodways shouldn't be necessary. The only problem is if the Regional Council are not keeping the balance correct between the Lakes and the River.	
Stock restrictions in drains		The drains on the property are not fenced but there are no stock on the property I lease.	
Other comments			
<b>Staff Response:</b>			
Point 1:	If the bylaw is implemented the area I lease would be cut by a third	It is not Councils intention to prohibit <b>any</b> activity within the Bylaw Applicable Areas. These areas are identified in the Bylaws to indicate that certain activities may need 'prior written authority' before they are undertaken. The Bylaw Authority process enables the landowner/leasee to communicate with Council about the intended activities and discuss any mitigation measures needed given the proximity to a council Defence Against Water (e.g. stopbank). Independent engineering advice given to Council (ICE Geo & Civil, 2020) outlines the potential failure risk ploughing creates close to Council assets that are present to protect surrounding land from flooding in high rainfall situations. The advice outlines the effect ploughing has on the heave potential of surface silt layers when rivers are in flood. Soil heave can result in piping of the underlying sand/pumice layers which in turn can contribute to asset failure. The premise of the ploughing specific rules in the Bylaws is for Council to work with the landowner/lessee to develop bespoke mitigation measures at specific sites with Bylaw Applicable Areas.	<b>Decline in Part</b>
Point 2:	There is no pumice in the Lower Kaituna River catchment area.	Though there will be local variations in the soil profile, the New Zealand Geotechnical Database describes lower Kaituna basin soil as being predominantly pumice within the sub-surface strata.	<b>Decline</b>
Point 3:	in 1982 a control gate was built at Okere Falls (which is the head of the Kaituna River), so Bay of	The Okere Gates are man-made structures to help control <i>water levels in the lakes</i> . The gates were constructed in 1982 to regulate the flow of water from	<b>Decline</b>



	Plenty Regional Council have full control over any flooding coming from the Rotorua catchment.	Lake Rotoiti into the Kaituna River. During flood situation the floodgates are more likely to be open to prevent lake levels increasing to overflowing.	
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<b>Submission ID:</b>		<b>0005 (Web ID: 18279)</b>	
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?		Yes	
Did you know about the Bylaws before today?		Yes	
Comments			
Were you aware that the Bylaws could affect you?		Yes	
Which change(s) affect you? Ploughing? Earthworks? Horticulture infrastructure? BAA increases?		Ploughing, Earthworks, Horticulture infrastructure, Bylaw applicable area increases	
Other?			
Do you agree that Council should have regulation for protecting flood assets?		Yes definitely support having legal protection of flood protection assets.	
Comment			
BAA changes		Support the increased areas. As long it doesn't affect our economic recovery or environmental responsibilities as tangata whenua and kaitiaki (the whole wellbeing). The bylaw may have an impact on how the whole region behaves e.g. restrictions for water quality riparian planting.	
Additional rules for pumiceous soils		No opinion at this stage.	
Additional Floodways		Support the establishment of additional floodways.	
Stock restrictions in drains		Yes definitely support the stopping of stock access to drains.	
Other comments		Take into account Waita Settlement; Ngati Tunohopu Treaty Claim 1101; that economic development should take into account social, environmental and cultural aspects; encourage riparian planting along waterways; maintaining and enhancing wetlands;	
<b>Staff Response:</b>			
Point 1:	Support the increased areas. As long it doesn't affect our economic recovery or environmental responsibilities as tangata whenua and kaitiaki (the whole wellbeing). The bylaw may have an impact	The Regional Council appreciates your support. Thank you for taking the time to submit on the changes to the Flood Protection and Drainage Bylaws. Staff have endeavoured to consider a number of factors when reviewing the Bylaws including the current economic recovery need.	<b>Accept</b>

	<p>on how the whole region behaves e.g. restrictions for water quality riparian planting.</p> <p>Take into account Waita Settlement; Ngati Tunohopu Treaty Claim 1101; that economic development should take into account social, environmental and cultural aspects; encourage riparian planting along waterways; maintaining and enhancing wetlands;</p>	<p>It is not BOPRC's intention to restrict riparian planting and part of the Implementation Plan for the Bylaws will include developing best practice for riparian planting in Bylaw Applicable Areas.</p> <p>The interests of tangata whenua as kaitiaki are being addressed specifically in a project investigating the impact the Bylaws have on traditional cultural practices and areas of waahi tapu.</p>	
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<b>Submission ID:</b>	<b>0006 (Web ID: 18283)</b>
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?	No
Did you know about the Bylaws before today?	Yes
Comments	
Were you aware that the Bylaws could affect you?	Yes, Just saw this and wanted to bring something to light that needs to be considered. If the Flood Protection and Drainage Bylaws are regulations that safeguard flood protection and land drainage assets from damage or misuse. Then the council should clear or allow land owners to clear drains (e.g. Te Puna Hakao stream - back drain of farm) that flood land due to the drain/stream being much higher than it should be due to sediment being washed down from properties such as the illegal dumping site at 106 Clarke Rd. If we take it on ourselves to clear the drain to protect our land from flooding and harm we then get can be imprisoned or get issued large fines. One owner rang and asked the council if he could clear all the weed with a small digger. The answer was no but they suggested pouring concentrated Roundup into the drain to kill the weed. I think we can do better than this.
Which change(s) affect you? Ploughing? Earthworks? Horticulture infrastructure? BAA increases?	Ploughing, Earthworks, Horticulture infrastructure
Other?	
Do you agree that Council should have regulation for protecting flood assets?	
Comment	

BAA changes	
Additional rules for pumiceous soils	
Additional Floodways	
Stock restrictions in drains	
Other comments	
<b>Staff Response:</b>	
Point 1:	<p>Council should clear or allow land owners to clear drains (e.g. Te Puna Hakao stream - back drain of farm) that flood land due to the drain/stream being much higher than it should be due to sediment being washed down from properties such as the illegal dumping site at 106 Clarke Rd.</p> <p>Unfortunately, the Te Puna area is not covered by the Flood Protection and Drainage Bylaws as there are no Council assets present in this part of the Bay of Plenty. It is recommended that you contact Western Bay of Plenty District Council about the illegal dumping.</p> <p>It is also suggested that you contact the Integrated Catchments team at the Regional Council concerning the Te Puna Hakao stream that floods land due to the drain/stream being much higher. They may be able to provide some advice on this matter.</p> <p><b>Decline</b></p>

<b>Submission ID:</b>	<b>0007 (Web ID: 18288)</b>
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?	No
Did you know about the Bylaws before today?	Yes
Comments	Follow updates of BOPRC governance regularly
Were you aware that the Bylaws could affect you?	Yes, as a supporter of the rehabilitation of our waterways, wetlands, sand dunes, estuaries, native bush/inhabitants, concerned about the pollution, unsustainable modification, loss of further taonga
Which change(s) affect you? Ploughing? Earthworks? Horticulture infrastructure? BAA increases?	Ploughing, earthworks, horticulture, infrastructure, Bylaw applicable area increases

Other?	Possible conflicts with projects such as Kaituna o Te Maru
Do you agree that Council should have regulation for protecting flood assets?	Yes, strengthening may allow retirement of many of low-lying wetlands and floodplains; in the future and encourage appropriate sustainable land/wetland /waterway use.
Comment	
BAA changes	Part 1. Agree with a standalone bylaw to clarify, the proposed new bylaws regarding the Regional Councils management of our flood protection and drainage systems. The COVID 19 pandemic is another timely reminder we are part of the ecosystem. To maintain healthy sustainable environments and organisms As stated in your documents, we need to be continually reviewing and improving our statutes, bylaws, acts, protocols.
Additional rules for pumiceous soils	Agree with proposed changes, especially since the Edgecumbe disaster, What is learned from it and the relevance in management of our waterways, flood plains, wetlands in the future.
Additional Floodways	Agree with the proposal to formally Identify these floodways in a separate bylaw. See this time of National emergency with COVID 19 lockdown as an opportunity to develop even better ways of respecting and managing the environment we inhabit.
Stock restrictions in drains	Absolutely agree with strengthened of stock restriction by law. Should have been enforced 50 years ago, Let alone allowing dairy farming to take over habitat designed for enanga, tuna, fishing, waterfowl, filtering of water, indigenous vegetation, trees and shrubs .
Other comments	Do hope the pleasing progress made over recent years involving collaboration, dialogue, scientific, biological research, facts and hard work, is not reversed due to the social and economic shock of COVID 19 pandemic which will continue for some time, due to political pressure and sector lobbying to reverse legislation with only short term benefits to a few. That we continue to be a Sovereign Nation, not become tenants. That the free trade multinationals/corporations, do not sabotage the gains we have made. Thank you for the opportunity to contribute
<b>Staff Response:</b>	
Point 1:	<div>The Regional Council appreciates your support. Thank you for taking the time to submit on the changes to the Flood Protection and Drainage Bylaws.</div> <div><b>Comment Noted</b></div>

<b>Submission ID:</b>		<b>0008 (Web ID: 18297)</b>	
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?		No	
Did you know about the Bylaws before today?		Yes	
Comments			
Were you aware that the Bylaws could affect you?		No	
Which change(s) affect you? Ploughing? Earthworks? Horticulture infrastructure? BAA increases?			
Other?			
Do you agree that Council should have regulation for protecting flood assets?		Yes	
Comment			
BAA changes			
Additional rules for pumiceous soils			
Additional Floodways			
Stock restrictions in drains			
Other comments			
<b>Staff Response:</b>			
Point 1:		The Regional Council appreciates your support. Thank you for taking the time to submit on the changes to the Flood Protection and Drainage Bylaws.	<b>Comment Noted</b>

<b>Submission ID:</b>		<b>0009 (Web ID:18299)</b>	
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?		Yes	
Did you know about the Bylaws before today?		Yes	
Comments		We received a letter from BOP Regional Council regarding the bylaw changes	
Were you aware that the Bylaws could affect you?		Yes, we have farmed this family property for the last 45 year. The family has owned and farmed the land for 70 years.	
Which change(s) affect you? Ploughing? Earthworks? Horticulture infrastructure? BAA increases?		Ploughing, Bylaw applicable area increases	
Other?			
Do you agree that Council should have regulation for protecting flood assets?			
Comment			
BAA changes			
Additional rules for pumiceous soils			
Additional Floodways			
Stock restrictions in drains			
Other comments			
<b>Staff Response:</b>			
Point 1:		<p>It is not Councils intention to prohibit any activity within the Bylaw Applicable Areas. These areas are identified in the Bylaws to indicate that certain activities may need 'prior written authority' before they are undertaken. The Bylaw Authority process enables the landowner/leasee to communicate with Council about the intended activities and discuss any mitigation measures needed given the proximity to a council Defence Against Water (e.g. stopbank).</p> <p>Independent engineering advice given to Council (ICE Geo &amp; Civil, 2020) outlines the potential failure risk ploughing creates close to Council assets that are present to protect surrounding land from flooding in high rainfall situations. The advice outlines the effect</p>	<b>Comment Noted</b>

		<p>ploughing has on the heave potential of surface silt layers when rivers are in flood. Soil heave can result in piping of the underlying sand/pumice layers which in turn can contribute to asset failure. The premise of the ploughing specific rules in the Bylaws is for Council to work with the landowner/lessee to develop bespoke mitigation measures at specific sites with Bylaw Applicable Areas. Note: information pertaining to Area 2 access on stopbanks and Bylaw Applicable Areas was also provided to you 12 June 2020.</p>	
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<b>Submission ID:</b>		<b>0010 (Web ID: 18307)</b>	
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?		No	
Did you know about the Bylaws before today?		No	
Comments			
Were you aware that the Bylaws could affect you?		No	
Which change(s) affect you? Ploughing? Earthworks? Horticulture infrastructure? BAA increases?			
Other?		Nothing I don't think	
Do you agree that Council should have regulation for protecting flood assets?		Yes	
Comment			
BAA changes			
Additional rules for pumiceous soils			
Additional Floodways			
Stock restrictions in drains			
Other comments			
<b>Staff Response:</b>			
Point 1:		The Regional Council appreciates your support. Thank you for taking the time to submit on the changes to the Flood Protection and Drainage Bylaws.	<b>Comment Noted</b>

<b>Submission ID:</b>	<b>0011 (Submission withdrawn 1 May 2020)</b>

<b>Submission ID:</b>	<b>0012 (Mail submission – See Appendix 1)</b>
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?	No
Did you know about the Bylaws before today?	
Comments	
Were you aware that the Bylaws could affect you?	
Which change(s) affect you? Ploughing? Earthworks? Horticulture infrastructure? BAA increases?	
Other?	
Do you agree that Council should have regulation for protecting flood assets?	
Comment	My main concern is banning all unauthorised vehicles driving on top of the flood banks. It's very bad on flood bank at Wellington St end of Union St, toward Waioeka Bridge. Once after very heavy rain, the traffic was as bad as Queen St, all unauthorised Utes. I would very much like to see this access banned to these morons who have no regard for anything apart from their own gratification. Please out a stop to this idiocy
BAA changes	
Additional rules for pumiceous soils	The Booklet (page 11) mentions "stopbank seepage and piping" - 5 Union St put up a fence close to the bottom of the flood bank. Would this fence be cause for concern? How could you prevent piping?
Additional Floodways	
Stock restrictions in drains	It's a good idea to ban stock from around drains
Other comments	Good idea to keep Waioeka River from silting up river from the bridge into Ōpōtiki and around the bridge itself



<b>Staff Response:</b>			
Point 1:	My main concern is banning all unauthorised vehicles driving on top of the flood banks. It's very bad on flood bank at Wellington St end of Union St, toward Waioeka Bridge. Once after very heavy rain, the traffic was as bad as Queen St, all unauthorised Utes. I would very much like to see this access banned	<b>Staff recommend</b> updating clause 5.2.2 to specifically include a statement about vehicles. Suggest the clause be updated to read:  "No person, under any circumstances, will: a) Damage or allow damage to occur to any defence against water, <b><i>including damage caused by vehicles.</i></b>	<b>Accept</b>

<b>Submission ID:</b>		<b>0013 (Mail Submission – See Appendix 1)</b>	
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?		Yes	
Main Submission points:		<ol style="list-style-type: none"><li>1. Hydro Road floodway – map provided showing areas of known seepage in flood conditions</li><li>2. 2017 flood showed the importance of the old Rangitāiki River streams – the banks integrity must be maintained</li><li>3. The island at the Whakatāne bridge needs to be removed</li><li>4. Dredging of the Rangitāiki River</li><li>5. The sand spit at Thornton river mouth, west side needs to be opened up.</li></ol>	
<b>Staff Response:</b>			
Point 1:	Hydro Road floodway – map provided showing areas of known seepage in flood conditions	BOPRC Operations staff are aware of the low lying area and monitor on a regular basis.	<b>Comment Noted</b>
Point 2:	2017 flood showed the importance of the old Rangitāiki River streams – the banks integrity must be maintained	The Council undertakes annual maintenance programmes to ensure that all canals, drains and rivers are maintained to ensure the integrity of defences against water.	<b>Accept</b>
Point 3:	The island at the Whakatāne bridge needs to be removed	It is BOPRC’s opinion that the risk of debris being caught on the island during flood events causing bridge damage is low, however	<b>Decline</b>

		the island and the build-up of sediment is monitored regularly to ensure the risk remains low.	
Point 4:	Dredging of the Rangitāiki River The sand spit at Thornton river mouth, west side needs to be opened up.	The purpose of these Bylaws is to provide a regulatory framework to protect and control council assets; including drains, pump stations, defences against water, erosion protection and floodways; managed by, or under the control of, the Bay of Plenty Regional Council. Dredging of the Rangitāiki River does not fall within the purview of the Bylaws; however the Council monitors the sand spit and technical engineers monitor the capacity of the river regularly. The council has protocols in place to open the river mouth in flooding situations, or if the sediment build-up gets too high.	<b>Comment Noted</b>

<b>Submission ID:</b>	<b>0014 (Mail submission – See Appendix 1)</b>
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?	No
Did you know about the Bylaws before today?	Yes
Comments	
Were you aware that the Bylaws could affect you?	No
Which change(s) affect you? Ploughing? Earthworks? Horticulture infrastructure? BAA increases?	Earthworks
Other?	
Do you agree that Council should have regulation for protecting flood assets?	Yes
Comment	For the reasons included in my attached submission I do not think the owners of 13 Pouwhare St. should not be an affected party.
Main Submission Points:	13 Pouwhare St. and surrounding properties are higher than the Warren Cole walkway. I cannot envisage river water seepage coming through the ground at 13 Pouwhare St. and submit that the owner of this property would not be an affected party. No part of 13 Pouwhare st or the Warren Cole walkway adjoining this property is a stopbank and accordingly the owner of this property should not be considered an affected party.

<b>Staff Response:</b>			
Point 1:	I do not think the owners of 13 Pouwhare St. should be an affected party.	<p>It is not Councils intention to provide for exemptions in the Bylaws and prefer that these matters be dealt with on a case-by-case property basis as the Authority Application process allows. There are several reasons for this:</p> <ul style="list-style-type: none"> <li>• Council endeavours to treat people equitably and fairly and makes every effort to ensure fairness in regulatory documents. The fundamental premise of regulatory documents is to treat all community members the same in the first instance.</li> <li>• To manage the outcome equitably– protection of the assets that protect communities from widespread flooding events - the foundation principle is that all members of that community have a part to play. If everyone has a part to play, no matter how small, then the rules should also apply to everyone.</li> <li>• The engineering modelling has developed baseline Bylaw Applicable Areas given a range of variables, however, in nature these variables may continually vary along a river reach i.e. each property may have individual idiosyncrasies for each variable. Impractically, infinite models would be needed to reflect this (or each property would need to be surveyed, soil profiles, slope gradient measures etc. which would be cost and time prohibitive. Through the Bylaw Authority process an individual property can be investigated by an engineer and the idiosyncrasies taken into account. Thus, if mitigation measures, are needed, they can be developed relevant to the exact site. Over time, staff hope to develop a database of on-ground data which will build a real picture of variables with a certain area. This could lead to less Bylaw Authorities being needed as property-scale data is collected.</li> </ul>	<b>Decline</b>
Point 2:	13 Pouwhare St. and surrounding properties are higher than the Warren Cole walkway. I cannot envisage river water seepage coming through the ground at 13 Pouwhare St. and submit that the owner of this property would not be an affected party. No part of 13 Pouwhare st or the Warren	<p>The high ground area directly adjacent to this property is not a designed stopbank as it was formed naturally, however it links to designed stopbanks on either side and is considered a Defence Against Water.</p> <p>It may well be that mitigation measures are not needed on this property, however the purpose of the Bylaw Applicable Area distances is to encourage landowners to initiate a discussion (through the Bylaw application process)</p>	<b>Accept in Part</b>

	Cole walkway adjoining this property is a stopbank and accordingly the owner of this property should not be considered an affected party.	with the Council when they wish is undertake certain activities by defences against water.	
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<b>Submission ID:</b>	<b>0015 (Web ID: 18347)</b>
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?	Yes
Did you know about the Bylaws before today?	Yes
Comments	
Were you aware that the Bylaws could affect you?	Yes, But not to the extent of Council having so much authority over our land.
Which change(s) affect you? Ploughing? Earthworks? Horticulture infrastructure? BAA increases?	Ploughing, Bylaw applicable area increases
Other?	
Do you agree that Council should have regulation for protecting flood assets?	I have no problem with the need to protect our River Scheme assets, but I have a problem with the 140m Bylaw applicable area. I feel it should stay at the 20m that it is now and has been for so long. We have not seen any signs of what Engineers say happens in the Lower Kaituna.
Comment	
BAA changes	<p>What is the need for it to be 140m for the Lower Kaituna River Scheme when 20m was enough? When the stop banks were built in the 80s a lot of extra fill was left over so through my place and others, they toe loaded the landward side of the stop bank for extra protection. In the Bylaw it says 140m from the toe of the stop bank - where is this when toe loaded?</p> <p>In the last 30 years we have not seen what your Engineers say, and we have had some weather events.</p> <p>Why is this 140m on the whole Lower Kaituna River Scheme when above the Te Puke Highway Bridge the stop banks are only built for 10 year events and have different soils?</p>

Additional rules for pumiceous soils		If the 140m rule is put in place and enforced, how does the wildlife reserve get water to flood their waterways? Would all pump stations be deemed inoperable within the 140ms? Do farm drains have to be filled in all the old river oxbows which were created when the river was straightened? If so who funds this?	
Additional Floodways		With the addition of Bylaws for the floodways, spillways, have they talked to the landowners and would they be eligible for compensation since they will not have the full use of their land?	
Stock restrictions in drains			
Other comments		I see the fees have been stopped but an hourly charge for an Engineer now applies. Does the land owner have to apply annually or is it a one off for a technical review or advice?	
<b>Staff Response:</b>			
Point 1:	What is the need for it to be 140m for the Lower Kaituna River Scheme when 20m was enough? When the stop banks were built in the 80s a lot of extra fill was left over so through my place and others they toe loaded the landward side of the stop bank for extra protection.	<p>BOPRC engineers have undertaken a comprehensive study of areas close to council assets. This study involved using computer modelling to develop multiple scenarios of flooding situations in river schemes e.g. Kaituna River. This modelling tested the probability of failure of assets in flood situations. A significant proportion of these failures have been initiated beyond the embankments themselves. Engineers also took into account previous history of flood events and the latest engineering best practice to determine potential failure zones, or Bylaw Applicable Areas. Some activities within these Areas raise the risk of potential asset failure in flood events.</p> <p><i>A Flood Protection and Drainage Bylaws Technical Report</i> is available on the BOPRC website. This report details the rationale for developing the new Bylaw Applicable Areas.</p> <p>It is not Councils intention to prohibit any activity within the Bylaw Applicable Areas. These areas are identified in the Bylaws to indicate that certain activities may need 'prior written authority' before they are undertaken. The Bylaw Authority process enables the landowner/leasee to communicate with Council about the intended activities and discuss any mitigation measures needed given the proximity to a council Defence Against Water (e.g. stopbank).</p>	<b>Comment Noted</b>
Point 2:	In the Bylaw it says 140m from the toe of the stop bank - where is this when toe loaded?	The purpose of the BAA3 distances is to encourage landowners to initiate a discussion (through the Bylaw application process) with the Council when	<b>Comment Noted</b>

		<p>they wish is undertake certain activities by defences against water. Even if the toe of a stopbank has been 'loaded' over time, the original design specification held with BOPRC can identify the true toe.</p> <p>When a Bylaw Authority is applied for, staff would check the design specifications and survey the property to determine the true toe of the stopbank.</p>	
Point 3:	<p>Why is this 140m on the whole Lower Kaituna River Scheme when above the Te Puke Highway Bridge the stop banks are only built for 10 year events and have different soils?</p>	<p>The distance proposed in the Bylaw Applicable Areas has no direct correlation to the height of the stopbank and more to do with the soil profile, foundation soil permeability and flood water pressure. The biggest risk to stopbank failure is water flow <i>under</i> stopbanks at points of weakness. BOPRC recommends reading the <i>Flood Protection and Drainage Bylaws 2020 Technical Report</i> to get a better understanding of this concept.</p> <p>Though there may be local variations in the soil profile, the New Zealand Geotechnical Database describes Kaituna soil as being predominantly pumice within the sub-surface strata.</p>	<b>Comment Noted</b>
Point 4:	<p>If the 140m rule is put in place and enforced, how does the wildlife reserve get water to flood their waterways? Would all pump stations be deemed inoperable within the 140ms? Do farm drains have to be filled in all the old river oxbows which were created when the river was straightened? If so who funds this?</p>	<p>If the 140m rule is put in place, the new Bylaw rules do not exist retrospectively, and can only be applied to new activities after the Bylaws legal commencement date. Any existing structure constructed under the 2008 Bylaws remain compliant in terms of Bylaws.</p> <ul style="list-style-type: none"> <li>• Wildlife reserves will still be able to receive water.</li> <li>• Pump Stations are Council assets and are addressed in the Bylaws clause 8. They would not be deemed inoperable as they play an important part in land drainage and control.</li> <li>• Farm drains and oxbows do not have to be filled in.</li> </ul>	<b>Comment Noted</b>
Point 5:	<p>With the addition of Bylaws for the floodways, spillways, have they talked to the landowners and would they be eligible for compensation since they will not have the full use of their land?</p>	<p>When a floodway or spillway is present, near or within, a property BOPRC communicates directly with the landowners when needed. The formalisation of some new floodways in the 2020 Bylaws is a way of protecting the floodways in the future.</p>	<b>Comment Noted</b>
Point 6:	<p>I see the fees have been stopped but an hourly charge for an Engineer now applies. Does the landowner have to apply annually or is it a one off for a technical review or advice?</p>	<p>The hourly rate for advice from engineers was also included in the 2008 Bylaws. We are waiving the application fee for new Authorities with the intention of encouraging landowners to communicate with BOPRC when undertaking certain activities. The Bylaw Authority process enables the</p>	<b>Comment Noted</b>

		landowner/leasee to communicate with Council about the intended activities and discuss any mitigation measures needed given the proximity to a Council Defence Against Water (e.g. stopbank). Engineer fees will be applied for any considerable amount of work that is needed to develop a mitigation plan for an activity.	
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<b>Submission ID:</b>		<b>0016 (Email Submission – See Appendix 1)</b>	
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?		Yes	
Main Submission points:		We are not opposed to the proposed Bylaw as written but believe additional statements must be included to address environmental issues and their mitigation (see full written submission).	
<b>Staff Response:</b>			
Point 1:	<p>We believe that the proposed bylaw does not adequately address or specify environmental issues, consideration of these issues, nor any mitigation options for environmental damage or enhancement within the schemes rivers or drainage systems.</p> <p>Fish and Game propose additional wording at the commencement of the paragraph "While the purpose of this bylaw is asset protection," <i>many parts of the river and drainage network are environmentally and ecologically significant in their own right.</i></p>	<p>Staff have added the following statement to the introduction:</p> <p><i>Compliance with these Bylaws does not remove the need for activities to also comply with the Resource Management Act 1991 and the requirements of other regional and district plans.</i></p> <p><i>Regulation of any adverse effects on the environment, of the construction or modification of drainage works and defences against water is provided by the operative Bay of Plenty Council Natural Resources Plan, which has been prepared under the Resource Management Act 1991.</i></p> <p><i>While the purpose of this Bylaw is asset protection, the Bay of Plenty Regional Council will follow good environmental practice, therefore these Bylaws are intended to be used in conjunction with central government</i></p>	<b>Accept in Part</b>

	<p><i>The network provides significant habitat for both terrestrial and aquatic biodiversity, fisheries and spawning habitat for indigenous species and sports fish, feeding and breeding habitat for a wide range of waterfowl species, along with public access, recreation and amenity values. While the purpose of this Bylaw is asset protection, it is imperative that these functions are undertaken in a way which does not compromise environmental values. The Bay of Plenty Regional Council will follow good environmental practice in its application by operating in accordance with current national direction, other Bay of Plenty Regional Council statutory documents, the current (2019) BOPRC Environmental Code of Practice for Rivers and Drainage Maintenance Activities, and current industry standards.</i></p>	<p><i>legislation, other Bay of Plenty Regional Council statutory documents, best practice, and current industry standards.</i></p> <p><i>This includes the National Policy for Freshwater Management (NPSFM), the Resource Management (National Environmental Standard for Freshwater) Regulations 2020 (NES) and the Resource Management (Stock Exclusion) Regulations 2020.</i></p> <p>It is staffs' intention that the above statement sufficiently covers the premise of environmental and ecological protection without derogating from the Bylaws themselves.</p>	
Point 2:	<p>As the introduction does not form part of the bylaws, it is important that specific mention of the BOPRC Environmental Code of Practice for Rivers and Drainage Maintenance Activities (2019) is incorporated into the body of the bylaws. This could be as simple as including a sentence under; "3 Purpose" to state; <i>All works will comply with the BOPRC Environmental Code of Practice for Rivers and Drainage Maintenance Activities (2019).</i></p>	<p>The following note has been added to clause 12.1:</p> <p><i>Note: All advice given under written authority will also consider the Bay of Plenty Regional Council Environmental Code of Practice for Rivers and Drainage Maintenance Activities.</i></p>	<b>Accept</b>



<b>Submission ID:</b>		<b>0017 (Email Submission – See Appendix 1)</b>	
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?			
Main Submission points:		See full submission.	
<b>Staff Response:</b>			
Point 1:	Concern around the size and location of the Te Rahu Ponding area	BOPRC will keep the Te Rahu Ponding Area boundaries consistent and will continue using the ponding area extent from the 2008 Bylaw document. The map itself will be refreshed. This will ensure consistency with the Whakatane District Plan.	<b>Accept</b>
Point 2:	Concern around the increase of the Bylaw Applicable Areas in the Whakatāne (20m – 40m), the Rangitāiki (150m – 200m) and the Tarawera (60m – 120m). The flow on effects around the need for multiple Bylaw Authorities for routine and emergency maintenance; and infrastructure installation and repairs. Creating wider Bylaw Applicable Areas would create an increase in the number of Bylaw Authorities needed and this would result in undue delays of this work.	BOPRC will with WDC to develop specific plans for activities that may necessitate multiple written authorities. To that end BOPRC have added specific clauses (12.2) that outline how this might be achieved.	<b>Accept in Part</b>

Point 3:	Concern that there is little spatial data to provide users of the Bylaws with certainty as to where the toe of a stopbank or other defence is.	As part of the Implementation Plan for the 2020 Bylaws, BOPRC staff are reviewing their GIS data, polygons and the spatial representation of Bylaws Applicable Areas on Geoview2. Staff are also looking into options around re-surveying sites where the toe of stopbanks may be uncertain.	<b>Accept in Part</b>
Point 4:	Applications costs. Support reduction of application costs to \$0	The Regional Council appreciates your support. Thank you for taking the time to submit on the changes to the Flood Protection and Drainage Bylaws.	<b>Comment Noted</b>
Point 5:	WDC is concerned that the discrepancies will be confusing and frustrating to users of the Whakatāne District Plan (WDP) who will have to navigate the discrepancies between the WDP and the Bylaw once approved. WDC requests written confirmation from BOPRC that they will apply for a private plan change (or other process as agreed) to review and amend the relevant ODP chapters, and Rules to reflect the Bylaw 2020 within six months of the Bylaw becoming operative.	It is BOPRC staffs' belief that WDC can update the WDP through an RMA schedule 1(16)(2) without having to undertake a schedule 1 consultation process, as BOPRC sees the changes to WDP as being minor. Staff are willing to work with WDC staff to confirm any minor changes that may be needed.	<b>Decline</b>

<b>Submission ID:</b>		<b>0018 (Email Submission – See Appendix 1)</b>	
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?		No	
Main Submission points:		1. Would like to understand the rationale for differing Bylaw Applicable Areas better 2. Are Council going to provide awareness/education to landowners in the future? 3. Overall NZKGI supports the intent to strengthen the clauses around defences against water and their reduction of Authority applications fees to zero.	
<b>Staff Response:</b>			
Point 1:	Would like to understand the rationale for differing Bylaw Applicable Areas better	A Flood Protection and Drainage Bylaws Technical Report is available on the BOPRC website. This report details the rationale for developing the new Bylaw applicable Areas.	<b>Accept</b>

Point 2:	Are Council going to provide awareness/education to landowners in the future?	BOPRC Staff are developing a comprehensive Implementation Plan to implement the Flood Protection and Drainage Bylaws 2020. Part of the Plan is to develop a thorough Education programme.	<b>Accept</b>
Point 3:	Over all NZKGI supports the intent to strengthen the clauses around defences against water and their reduction of Authority applications fees to zero.	The Regional Council appreciates your support. Thank you for taking the time to submit on the changes to the Flood Protection and Drainage Bylaws.	<b>Comment Noted</b>

<b>Submission ID:</b>		<b>0019 (Email Submission – see Appendix 1)</b>	
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?		No	
Main Submission points:		<ol style="list-style-type: none"><li>1. Overall WBOPDC supports the draft Bylaws</li><li>2. Clarity is sought over how the Bylaws will interface with existing provisions in BOPRC’s RPS and Regional Plans</li><li>3. WBOPDC would like to see MOU arrangements framework added to all for programmes of works and maintenance.</li><li>4. WBOPDC would like to understand how upstream impacts and impacts on stormwater networks or other drainage schemes are factored in</li><li>5. Wish to see some improvement in clarity re: some definitions and intent to improve and enable efficient application.</li></ol>	
<b>Staff Response:</b>			
Point 1:	Overall WBOPDC supports the draft Bylaws	The Regional Council appreciates your support. Thank you for taking the time to submit on the changes to the Flood Protection and Drainage Bylaws.	<b>Comment Noted</b>
Point 2:	Clarity is sought over how the Bylaws will interface with existing provisions in BOPRC’s RPS and Regional Plans	BOPRC Staff are developing a comprehensive Implementation Plan to implement the Flood Protection and Drainage Bylaws 2020. Part of the Plan is to develop a thorough Education programme. This will include development of an information package that outlines how the bylaws interface with a range of central government, regional and district plans and policies.	<b>Accept</b>

Point 3:	WBOPDC would like to see MOU arrangements framework added to all for programmes of works (e.g. cycleway/walkways on stopbanks).	BOPRC will with WBOPDC to develop specific plans for activities that may necessitate multiple written authorities. To that end BOPRC have added specific clauses (12.2) that outline how this might be achieved.	<b>Accept in Part</b>
Point 4:	WBOPDC would like to understand how upstream impacts and impacts on stormwater networks or other drainage schemes are factored in particularly around the pump station clauses (8) (a) and (b)	BOPRC staff will work directly with WBOPDC on understanding the impacts pump stations have on the drainage systems and WBOPDC's stormwater systems. This could easily be added as a specific project within the Implementation Plan.	<b>Accept</b>
Point 5:	Wish to see some improvement in clarity re: some definitions and intent to improve and enable efficient application.	<p><b>Staff recommend:</b></p> <p>BOPRC <b>accept</b>. The term "carriageway" will be reinstated in the definitions under Defences Against Water.</p> <p>BOPRC <b>decline</b>. The definition of 'dwelling' in the Bylaws is purposeful. We only wish to prohibit habitable dwellings, not all structures. The main focus of these definitions is the inherent risk to <i>people</i> living in flood prone areas. Other structures may include barns, sheds etc. which may fail in flood situation but there will be no risk to human life. Council is not prohibiting all 'structures' just 'dwellings' in which people live.</p> <p>BOPRC <b>accept</b>. The note referring to floor levels in Part III will be removed as it is confusing.</p> <p>BOPRC <b>accept</b>. The work of "small scale backyard cultivation" will be change to 'small scale <i>gardens</i>'.</p> <p>BOPRC <b>accept in part</b>. The GEOView2 Bylaw and assets layers will be updated.</p> <p>BOPRC <b>decline</b>. In the table specifying Bylaw Applicable Areas in clause 5.2.1 (g) the word 'waterway' is purposeful as it designates the margins for specific <i>rivers</i> not entire schemes.</p> <p>BOPRC <b>decline</b>. The definition of the work 'plant' is implicit in the text due to whether it is used as a verb or a noun. BOPRC intend to continue the proposed use of the 'plant' in each context.</p> <p>BOPRC <b>decline</b>. "items" means things.</p> <p>BOPRC <b>accept</b>. The typing mistake is noted and updated in clause 10 (d).</p>	<b>Accept in Part</b>

<b>Submission ID:</b>	<b>0020 (Web ID: 18374)</b>
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?	No
Did you know about the Bylaws before today?	Yes
Comments	We were made aware the Bylaws were being reviewed, and received information pertaining to this via email, as affected Landowners.
Were you aware that the Bylaws could affect you?	Yes
Which change(s) affect you? Ploughing? Earthworks? Horticulture infrastructure? BAA increases?	Ploughing, Earthworks, Bylaw applicable area increases
Other?	The concern that existing status becomes non-compliant, and what then will be the requirements to meet new bylaw standards.
Do you agree that Council should have regulation for protecting flood assets?	Definitely yes.
Comment	
BAA changes	We think there needs to be some sort of correlation between the height of the Stopbank and area 3 widths. E.g. a one metre high stopbank can be of a lesser standard than a 3 metre high stopbank.
Additional rules for pumiceous soils	This soil type is certainly a major concern, but underlying sand layer type soils and stopbanks built from sand maybe need addressing also.
Additional Floodways	
Stock restrictions in drains	Stop banks should be grazed to keep tidy to allow access for contractors to maintain drains. Stopbanks must be kept clean and free of all weeds that can inhibit water flow.
Other comments	Culverts under existing stopbanks. Do these culverts pose a risk, under the new standards? Do these existing culverts need to be extended further into area 3 in order to reduce the risk of water flowing through permeable soils and exiting into the drain excavations.
<b>Staff Response:</b>	

Point 1:	The concern that existing status becomes non-compliant, and what then will be the requirements to meet new bylaw standards.	The new Bylaw rules do not exist retrospectively and can only be applied to new activities after the Bylaws legal commencement date. Any existing structure constructed under the 2008 Bylaws remain compliant in terms of Bylaws.	<b>Comment Noted</b>
Point 2:	We think there needs to be some sort of correlation between the height of the Stopbank and area 3 widths. E.g. a one metre high stopbank can be of a lesser standard than a 3 metre high stopbank	The distance proposed in the Bylaw Applicable Areas has no direct correlation to the high of the stopbank and more to do with the soil profile, foundation soil permeability and flood water pressure. The biggest risk to stopbank failure is water flow <i>under</i> stopbanks at points of weakness. BOPRC recommend reading the <i>Flood Protection and Drainage Bylaws 2020 Technical Report</i> to get a better understanding of this concept.	<b>Decline</b>
Point 3:	Stop banks should be grazed to keep tidy to allow access for contractors to maintain drains. Stopbanks must be kept clean and free of all weeds that can inhibit water flow.	Stock exclusion from drains refers to any drain <i>without a stopbank</i> (clause 5.1 (h)). Stopbanks are considered a <i>defence against water</i> . It is permissible to graze these stopbanks provided the defence against water is not damaged (Clause 5.2.2)	<b>Accept in Part</b>
Point 1:	Culverts under existing stopbanks. Do these culverts pose a risk, under the new standards? Do these existing culverts need to be extended further into area 3 in order to reduce the risk of water flowing through permeable soils and exiting into the drain excavations.	As discussed above, the new Bylaw rules do not exist retrospectively, and can only be applied to new activities after the Bylaws legal commencement date. Any existing structure constructed under the 2008 Bylaws remain compliant in terms of Bylaws and do not need to be updated.	<b>Comment Noted</b>

<b>Submission ID:</b>	<b>0021 (Web ID: 18382)</b>
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?	Yes
Did you know about the Bylaws before today?	Yes
Comments	
Were you aware that the Bylaws could affect you?	Yes

Which change(s) affect you? Ploughing? Earthworks? Horticulture infrastructure? BAA increases?		Bylaw applicable area increases	
Other?			
Do you agree that Council should have regulation for protecting flood assets?		Yes	
Comment		The new proposed area increases have major implications on how we can use the land without authorisation from the Bay of Plenty Regional Council. The proposed area increases will effect two thirds of our land, the legal description of the property is allot 87 of sec 2 Ōpōtiki in. The land is currently a bare block; I believe the changes will make our investment worthless. We agree 100% that the stop banks need to be protected as it protects our investments but in this instance our investment will become a liability with no possible fair and just outcome.	
BAA changes			
Additional rules for pumiceous soils			
Additional Floodways			
Stock restrictions in drains			
Other comments			
<b>Staff Response:</b>			
Point 1:	The new proposed area increases have major implications on how we can use the land without authorisation from the Bay of Plenty Regional Council.	It is not Councils intention to prohibit any activity within the Bylaw Applicable Areas. These areas are identified in the Bylaws to indicate that certain activities may need 'prior written authority' before they are undertaken. The Bylaw Authority process enables the landowner/leasee to communicate with Council about the intended activities and discuss any mitigation measures needed given the proximity to a Council Defence Against Water (e.g. stopbank).	<b>Accept in Part</b>

<b>Submission ID:</b>	<b>0022 (Web ID: 18383)</b>
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?	Yes
Did you know about the Bylaws before today?	Yes

Comments	I met a group from Regional Council at a market day in Edgumbe a few weeks back before the shutdown. After having a discussion with a lady there who explained the purpose of the display and what was required.		
Were you aware that the Bylaws could affect you?	No, But I am very concerned as we have been flooded several times before and after the big flood in 2017. Mostly due to the fact the drains were blocked with rubbish and weeds.		
Which change(s) affect you? Ploughing? Earthworks? Horticulture infrastructure? BAA increases?			
Other?	Preserving my property and equipment. I am not sure which box to tick for this.		
Do you agree that Council should have regulation for protecting flood assets?	Yes there needs to be legal plans so as both the council and the public have guidelines to work with. Therefore I would like to see in the new laws an arrangement to set up cleaning maintenance for around once a year. Not spraying of weed killer this is of no use in this situation.		
Comment			
BAA changes	Not sure, I would need some discussion to be able to comment any further.		
Additional rules for pumiceous soils			
Additional Floodways			
Stock restrictions in drains			
Other comments			
<b>Staff Response:</b>			
Point 1:	I am very concerned as we have been flooded several times before and after the big flood in 2017. Mostly due to the fact the drains were blocked with rubbish and weeds. Therefore I would like to see in the new laws an arrangement to set up cleaning maintenance for around once a year.	Council undertakes maintenance of these drains on a 5 yearly basis or when required. These drains were last maintained in May 2020. Unfortunately, rubbish can sometimes accumulate but regular inspections are undertaken to control blockages to the drainage system.	<b>Comment Noted</b>



<b>Submission ID:</b>	<b>0023 (Web ID: 18389)</b>
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?	Yes
Did you know about the Bylaws before today?	Yes
Comments	
Were you aware that the Bylaws could affect you?	Yes
Which change(s) affect you? Ploughing? Earthworks? Horticulture infrastructure? BAA increases?	Bylaw applicable area increases
Other?	Vector have a gas line that runs at the back of our property near the land side of the Te Rahu canal. There is an easement for them to access the line to perform checks and maintenance to the gas line underground. It is not clear in the Bylaw who is responsible for ensuring any Vector works carried out meeting the bylaw.
Do you agree that Council should have regulation for protecting flood assets?	
Comment	
BAA changes	Area 2. Unclear if any existing fencing on top of Area 2 can remain in place. If existing fencing needs to be removed who will be paying for the removal and relocation?
Additional rules for pumiceous soils	
Additional Floodways	
Stock restrictions in drains	Comments continued: We have reached out several time via phone to discuss our specific situation. It is unfair for the Regional council to enforce new by laws when existing issues have been caused as a result from the regional council works. e.g. Te Rahu canal bank increase in height a few years ago, the fill used was silt. As a result of using silt it is impossible to grow grass to protect the bank. We have not grazed the bank for the last 6 months. Silt is not stable/solid fill.
Other comments	5.2.2 Page 23. Explanation: Stock on stopbanks is not ideal but grazing is sometimes used as a method to maintain the grass cover height e.g. long grass restricts inspections and condition assessments, is a fire hazard during summer, can hide rabbit holes and bank erosion. Controlled grazing by young cows is allowable with prior written authority. Grazing by bulls, horses and

		pigs is not permitted. Clause is unclear. What does Young cows mean? With prior written authority? What does this mean this is unclear. If landowners are required to get approval to graze a stock bank, then the BOP Regional councils rates need to reflect that this land is unable to productively farmed by the landowner. Landowner with stopbanks should get a rate reduction for the ratio of land on the stock bank.	
<b>Staff Response:</b>			
Point 1:	It is not clear in the Bylaw who is responsible for ensuring any Vector works carried out meeting the bylaw.	Any works undertaken by Vector on vector-owned infrastructure would mean Vector are responsible for ensuring they comply with the Bylaws	<b>Comment Noted</b>
Point 2:	Area 2. Unclear if any existing fencing on top of Area 2 can remain in place.	The new Bylaw rules do not exist retrospectively and can only be applied to new activities after the Bylaws legal commencement date. Any existing structures constructed under the 2008 Bylaws, remain compliant in terms of Bylaws.	<b>Comment Noted</b>
Point 3:	It is unfair for the Regional council to enforce new by laws when existing issues have been caused as a result from the regional council works e.g. Te Rahu canal bank increase in height a few years ago, the fill used was silt. As a result of using silt it is impossible to grow grass to protect the bank.	Your concern about the bank being unable to be grassed has been passed on to our operations team. A staff member will contact you to discuss the problem.	<b>Comment Noted</b>

Point 4:	<p>Clause 5.2.2. Clause is unclear. What does Young cows mean? With prior written authority? What does this mean this is unclear. If landowners are required to get approval to graze a stock bank, then the BOP Regional councils rates need to reflect that this land is unable to productively farmed by the landowner. Landowner with stopbanks should get a rate reduction for the ratio of land on the stock bank.</p>	<p>This clause states:            “No person under any circumstances will:            (a) Damage, or allow damage to occur to any defence against water            (b) Allow stock to damage or overgraze any defence against water.</p> <p><b>Explanation:</b> Stock on stopbanks is not ideal but grazing is sometimes used as a method to maintain the grass cover height e.g. long grass restricts inspections and condition assessments, is a fire hazard during summer, can hide rabbit holes and bank erosion. Controlled grazing by stock is allowable with <b>prior written authority</b>. Grazing by bulls, horses and pigs is not permitted.”</p> <p>This clause and the accompanying explanation are intended to protect the stopbanks from damage. Grazing of stock is permitted. However, the onus is on the farmer to manage stock so that the stopbank is not overgrazed, losing soil structure through pugging, or loss of pasture. The explanation is provided to qualify why grazing is permitted and which stock are allowable. Bulls and horses tend to be bigger, heavier animals and are more prone to damaging grass thatch. And pigs tend to naturally dig soil with their noses looking for food, and this can be very destructive to pasture.</p>	Comment Noted
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<b>Submission ID:</b>	<b>0024 (Web ID: 18391)</b>
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?	No
Did you know about the Bylaws before today?	No
Comments	

Were you aware that the Bylaws could affect you?	No
Which change(s) affect you? Ploughing? Earthworks? Horticulture infrastructure? BAA increases?	Earthworks
Other?	
Do you agree that Council should have regulation for protecting flood assets?	
Comment	
BAA changes	9 Pouwhare Street is one of the highest properties in the area which overlooks the Whakatāne River and is higher than the Warren Cole walkway. It has never had a need for a stopbank as it is considerably higher than the manmade stop bank which starts further down closer to the river mouth. This area was left with its original natural lay when subdivided and with the height of this property the risk of seepage and piping and water bubbling up through the ground would be impossible. Consequently, I believe that I should not be considered as a potential affected party; and the property bylaws should not apply to 9 Pouwhare Street.
Additional rules for pumiceous soils	
Additional Floodways	
Stock restrictions in drains	
Other comments	
<b>Staff Response:</b>	
Point 1:	<p>9 Pouwhare Street is one of the highest properties in the area which overlooks the Whakatāne River and is higher than the Warren Cole walkway. It has never had a need for a stopbank as it is considerably higher than the manmade stop bank which starts further down closer to the river mouth.</p> <p>The high ground area directly adjacent to this property is not a formed stopbank as it was formed naturally, however it links formed stopbanks on either side and is considered <i>a Defence Against Water</i>. Applying for Bylaw Authority would illicit a response that it is unlikely that activities would compromise any assets and therefore it is likely no mitigation measures would be needed. Communicating with BOPRC when undertaking any ground penetrating activities near this area would allow BOPRC to confirm this.</p>
Point 2:	<p>This area was left with its original natural lay when subdivided and with the height of this property the risk of seepage and piping and water bubbling up through the ground would be</p> <p>The Council does not intend to provide for exemptions in the Bylaws themselves, and prefer that these matters be dealt with on a case-by-case property basis as the Authority Application process allows. There are several reasons for this:</p>
	<b>Accept</b>
	<b>Decline in Part</b>

	<p>impossible. Consequently, I believe that I should not be considered as a potential affected party; and the property bylaws should not apply to 9 Pouwhare Street.</p>	<ul style="list-style-type: none"> <li>• Council endeavour to treat people equitably and fairly and make every effort to ensure fairness in regulatory documents. The fundamental premise of regulatory documents is to treat all community members the same in the first instance.</li> <li>• To manage the outcome equitably– protection of the assets that protect communities from widespread flooding events - the foundation principle is that all members of that community have a part to play. If everyone has a part to play, no matter how small, then the rules should also apply to everyone.</li> <li>• The engineering modelling has developed baseline Bylaw Applicable Areas given a range of variables, however, in nature these variables may continually vary along a river reach i.e. each property may have individual idiosyncrasies for each variable. Impractically, infinite models would be needed to reflect this (or each property would need to be surveyed, soil profiles, slope gradient measures etc. which would be cost and time prohibitive. Through the Bylaw Authority process an individual can be investigated by an engineer and the idiosyncrasies taken into account. Thus, if mitigation measures, are needed, they can be developed relevant to the exact site. Over time, staff hope to develop a database of on-ground data which will build a real picture of variables with a certain area. This could lead to less Bylaw Authorities being needed as property-scale data is collected.</li> </ul>	
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<b>Submission ID:</b>	<b>0025 (Web ID: 18399)</b>
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?	Yes
Did you know about the Bylaws before today?	Yes

Comments	<p>Potts and Hodgson emailed your office on the 26th February 2020 at my request to arrange consultation with myself and Ian Connor who is the other landowner affected by the proposed Waioeka floodway.</p> <p>No consultation has taken place.</p>
Were you aware that the Bylaws could affect you?	Yes
Which change(s) affect you? Ploughing? Earthworks? Horticulture infrastructure? BAA increases?	Ploughing, Earthworks, Bylaw applicable area increases
Other?	<p>The draft Bylaw ignores the recently established Ōpōtiki District Marine Industrial Zone (MIZ) in the District Plan.</p> <p>The MIZ bounds the proposed Waioeka floodway. If the drains and stopbank come under this regime then the restrictive margins prevent the anticipated and planned industrial development of the MIZ. There is no need for stopbanks as any development needs to be elevated.</p> <p>Access to the MIZ is through the land that is being proposed as a floodway. The development requires good access, and the developer will probably be required to improve access to meet MTA approved highway standards. The planned development should not be hampered by the application of restrictive areas as set out in Part 1 clauses 5.1 and 5.2 of the draft Bylaw.</p> <p>The definition of Stopbank; in the draft Bylaw does not extend to the boundary between the floodway and the MIZ. If that remains the case, then that is satisfactory with respect to the floodway land. If you do not accept that that area is not included, then the terms are opposed. Similarly, the drains at the foot of those stopbanks are not included because they are not maintained as part of a drainage scheme and therefore are not under the Regional Councils control.</p> <p>The stopbanks in the MIZ cannot be subject to the proposed restrictions as that would preclude the approved works for the establishment of the marina wharf and industrial site. The MIZ should be excluded from the Bylaw. If not, then the restrictions are counter to planned development which has been approved by the general public of Ōpōtiki, the Ōpōtiki District Plan, the Regional Council and the Government Regional Development Scheme. This area and its development is critical for the viability of the whole Harbour Development Project in Ōpōtiki. It is not right for a Bylaw to ignore the committed development and require discretionary control to be in the hands of the Council.</p> <p>To do that brings into question the appropriateness of the Bylaw as maybe the Ōpōtiki District Council should have supervisory authority.</p>

Do you agree that Council should have regulation for protecting flood assets?	The BOP Regional Council should have regulations for protecting flood assets, but the application of those regulations should be limited. The limitations of use are general and inappropriate in some applications but should not apply unless necessary for protection. The regulations should be mindful of the wider impact of the restrictions including their impact on the economy of the district.
Comment	
BAA changes	<p>The exclusion of 12 meters from a drain is unnecessarily restrictive on farming as grass renewal is not possible without disturbing the soil. It is also restrictive and counter to the environmental imperative for riparian planting.</p> <p>It is not easy to establish what are included as assets of the Drainage schemes or under Council control. The Asset register should be plain and easily accessible.</p> <p>If the Waioeka floodway is subject to restrictions which affect the use of pasture adjacent to the drains and defences against water in or adjacent to the floodway there would be little land left for pastoral use.</p> <p>The need for restriction as to use areas within the Waioeka floodway and the MIZ are not justified and impede existing and planned use unreasonably and excessively. No compensation would be sufficient.</p> <p>The restrictions on stock grazing stopbanks is unreasonable. The statement that bulls and horses will not be consented is unjustified. Bulls younger than 2 years do not damage the land and horses do not damage at any age. This restriction is arbitrary and should be removed.</p> <p>The addition of the Waioeka floodway is unnecessary as the control of that area could remain with the Ōpōtiki District Council which can take the broader district interests into account. The Part Three restrictions are only qualified by the completely discretionary consent of the Council. Council should be required to take the broader impact of the restrictions into account.</p>
Additional rules for pumiceous soils	
Additional Floodways	<p>The Waioeka Floodway proposal does not allow for the necessary regional development project of the Ōpōtiki Harbour and aquaculture industry. The plans for industrial use include the use of part of the floodway land for the road access to the MIZ. That is essential for the industrial development which is an integral part of the Harbour Development project. The plans include the use of some of the floodway for car parking areas and that should be allowed for.</p> <p>The area of the floodway is greater than can be justified as it is not a ponding area but a protection of adjacent land from flooding.</p>

Stock restrictions in drains	The restrictions do not allow for ecological plantings or fencing off of the 12 metre margin. This is impractical.		
Other comments	A Bylaw should not apply for the convenience of the Council but for the necessity of providing authority for effective and necessary control and protection. The control must be appropriate for the need and not excessive.		
<b>Staff Response:</b>			
Point 1:	The draft Bylaw ignores the recently established Ōpōtiki District Marine Industrial Zone (MIZ) in the District Plan	Regional Council are fully aware of the Ōpōtiki District Marine Industrial Zone (MIZ) and are working with the landowners.	<b>Comment Noted</b>
Point 2:	The BOP Regional Council should have regulations for protecting flood assets, but the application of those regulations should be limited. A Bylaw should not apply for the convenience of the Council but for the necessity of providing authority for effective and necessary control and protection. The control must be appropriate for the need and not excessive.	The Land Drainage Act 1908, The Soil Conservation and Rivers Control Act 1958 and the Local Government Act 2002 give Regional Councils the powers: <ul style="list-style-type: none"><li>- to make bylaws (LGA s143)</li><li>- to enforce all regulatory measures within Bylaws (LGA s143)</li><li>- to “...undertake certain activities on, or in relation to, private land, including powers in relation to owners and occupiers...” (LGA s143)</li><li>- to maintain drains... (LDA s 17)</li><li>- to enter private lands for survey etc. (LDA s18)</li><li>- to make drains from private lands... (LDA s 23).</li></ul> These powers are limited to, and specific for, the protection and management of Flood Protection and Drainage assets.	<b>Accept in Part</b>
Point 3:	The exclusion of 12 meters from a drain is unnecessarily restrictive on farming as grass renewal is not possible without disturbing the soil. It is also restrictive and counter to the environmental imperative for riparian planting.	Council is not prohibiting the planting of grass within 12 metres of a drain. The intent of the clauses in 5.1.1 are to ensure that there is adequate room for drain maintenance to occur (often with diggers) and appropriate planting of riparian margins so that water flow is not impeded. Applying for a Bylaw authority will ensure that the landowner and the council develop a specific planting regime for the unique situation.	<b>Decline</b>
Point 4:	The restrictions on stock grazing stopbanks is unreasonable. The statement that bulls and	The intent of clause 5.2.2 is to prevent damage or overgrazing of any defence against water.	<b>Decline</b>



	<p>horses will not be consented is unjustified. Bulls younger than 2 years do not damage the land and horses do not damage at any age. This restriction is arbitrary and should be removed.</p>	<p>This clause states:            “No person under any circumstances will:            (a) Damage, or allow damage to occur to any defence against water            (b) Allow stock <b>to damage or overgraze</b> any defence against water.</p> <p><b>Explanation:</b> Stock on stopbanks is not ideal but grazing is sometimes used as a method to maintain the grass cover height e.g. long grass restricts inspections and condition assessments, is a fire hazard during summer, can hide rabbit holes and bank erosion. Controlled grazing by stock is allowable with <b>prior written authority</b>. Grazing by bulls, horses and pigs is not permitted.”</p> <p>This clause and the accompanying explanation are intended to protect the stopbanks from damage. Grazing of stock is permitted. However, the onus is on the farmer to manage stock so that the stopbank is not overgrazed, losing soil structure through pugging, or loss of pasture. The explanation is provided to qualify why grazing is permitted and which stock are allowable. Bulls and horses tend to be bigger, heavier animals and are more prone to damaging grass thatch. And pigs tend to naturally dig soil with their noses looking for food, and this can be very destructive to pasture.</p>	
Point 5	<p>The addition of the Waioeka floodway is unnecessary as the control of that area could remain with the Ōpōtiki District Council which can take the broader district interests into account. The Part Three restrictions are only qualified by the completely discretionary consent of the Council. Council should be required to take the broader impact of the restrictions into account.</p>	<p>Bay of Plenty Regional Council has formally identified the Waioeka overland flow path as a Floodway in the BOPRC Flood Protection and Drainage Bylaws 2020. As part of the Waioeka-Otara Scheme, the floodway contributes significantly to the management of high water in a flood situation. The scheme was originally designed, constructed, and is maintained in a way that a preferential flood path through the property was and is, an integral element of the scheme.</p>	<b>Comment Noted</b>

Point 6	The restrictions do not allow for ecological plantings or fencing off of the 12 metre margin. This is impractical.	It is not Councils intention to prohibit any activity within the Bylaw Applicable Areas. These areas are identified in the Bylaws to indicate that certain activities may need ' <b>prior written authority</b> ' before they are undertaken. The Bylaw Authority process enables the landowner/leasee to communicate with Council about the intended activities and discuss any mitigation measures needed given the proximity to a drain.	<b>Comment Noted</b>
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<b>Submission ID:</b>	<b>0026 (Web ID: 18401)</b>
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?	Yes
Did you know about the Bylaws before today?	No
Comments	Please see our submission email ( <i>Appendix 2</i> )
Were you aware that the Bylaws could affect you?	no
Which change(s) affect you? Ploughing? Earthworks? Horticulture infrastructure? BAA increases?	Bylaw applicable area increases
Other?	
Do you agree that Council should have regulation for protecting flood assets?	No, not in the Residential area and especially not regulate privately owned land, not directly adjacent to the land occupying council's asset which is designated by legislation for residential activities including building houses, planting gardens erecting boundary fences.
Comment	
BAA changes	
Additional rules for pumiceous soils	
Additional Floodways	
Stock restrictions in drains	
Other comments	Flood Protection and Drainage Bylaws 2020 submission (This submission is incomplete as we are still awaiting for additional info sought from Council so as to be able to make a full and informed submission, so we reserve the right please to add to this submission, by way of completion, once we have access to and have time to review the additional info sought in relation to this Bylaw Change). We note that Council staff have had to

		<p>rush out this proposed bylaw change in order to meet their 10 year deadline. We note also the Covid crisis has meant limited availability of opportunity to meet with face to face to discuss documentation in relation to this proposed bylaw change, resulting in a poor consultation process being effected.</p> <p>see email submission sent (<i>Appendix 2</i>)</p>	
<b>Staff Response:</b>			
Point 1:	<p>We note that Council staff have had to rush out this proposed bylaw change in order to meet their 10 year deadline. We note also the Covid crisis has meant limited availability of opportunity to meet with face to face to discuss documentation in relation to this proposed bylaw change, resulting in a poor consultation process being effected.</p>	<p>Review of the Floodway and Drainage Bylaw 2008 was started in Jul 2019. Council undertook a substantial engagement and communications process in late 2019, with targeted workshops and Opens Days being held in October and November, respectively. Open Days for each scheme were advertised in newspapers, social media, and radio to capture those affected. Each landowner affected was also sent a letter outlining the process and the opportunities for involvement in formal consultation. Unfortunately, the COVID-19 lockdown occurred in March – April 2020 at the time of the formal submission period for the Proposed Bylaws.</p> <p>The Local Government Act 2002 (LGA) requires Council to undertake a comprehensive review of its bylaws ten years after they were last reviewed; and complete the review within a two year time frame from that review date. If the Bylaws were not reviewed, as required under the Act, then they would have been revoked under the LGA section 160A.</p> <p>This was the premise under which Council continued consultation of the Bylaws under the COVID-19 lockdown.</p> <p>In relation to the issues faced by Local Government from COVID-19, Central Government established a Local Government Response Unit. The Unit was tasked with finding solutions to problems caused by legislative requirements – such as regulatory timeframes. Staff raised the matter of the revocation issues noted above with them. Ministers approved progressing temporary legislative changes to address issues arising from the COVID-19 emergency.</p>	<b>Decline</b>

		<p>This temporarily suspended the provision that automatically revokes bylaws after 2 further years if they were not renewed within the required period.</p> <p>The suspension of this provision will be in place until 30 June 2021 meaning that any bylaws that would be automatically revoked before this date will continue in force until then.</p> <p>This changed the underlying premise that Council had adopting the Bylaws before July 2020 and interested parties were given the opportunity to be heard at Hearings postponed until August 2020.</p>	
Point 2:	<p>Our concerns and objections herein are largely in light of affected residential land, within the extended applicable area (20 to 40 metre zone) in urban areas (versus rural and business zoned activities). Our objections concern the legality of Councils proposed restrictions in the new proposed extended zone (20-40m area in the urban area (ultra vires), the evidence of proposed risk in that area (viz Whakatane river extended zone 20-40m area), and especially along the Whakatane River (versus the Kaituna, Tarawera and Rangitāiki rivers – viz pumiceous soil areas).</p>	<p>It is not Councils intention to prohibit any activity within the Bylaw Applicable Areas. These areas are identified in the Bylaws to indicate that certain activities may need ‘prior written authority’ before they are undertaken. The Bylaw Authority process enables the landowner to communicate with Council about the intended activities and discuss any mitigation measures needed given the proximity to a Council Defence Against Water (e.g. stopbank). The purpose of the Bylaws is to provide a regulatory framework to protect council assets. Certain ground penetrating activities can compromise the integrity of the assets ability to provide protection from flood events, this is especially true in the urban setting where intensification of activities occurs. The Bylaws are developed under the Local Government Act which provides Council with the ability to develop regulation under s 149 to protect council assets whether those assets are in a rural or urban setting.</p>	<b>Decline</b>
Point 3:	<p>The fact that the Council documentation seen so far alludes largely to risk analysis in Rural zones (versus Residential areas) including earthworks in the agricultural horticultural context, and risk of stopbank seepage and piping to areas with pumiceous soils viz Not the Whakatane river.</p>	<p>The Flood Protection and Drainage Bylaws apply to all assets whether they be in a rural or urban location.</p> <p>In fact, assets are often more important in an urban setting as they protect a higher population from flood inundation.</p> <p>Part 1 of the Bylaws applies to <b>all</b> scheme assets including the Whakatane River and the urban environment.</p> <p>Part II of the Bylaws applies to pumiceous soils only, and has additional rules for earthworks penetrating the soil more than</p>	<b>Decline</b>

		300mm – including, for example, fencing, infrastructure, shelter belts and ploughing etc. whether they are in a rural <b>or</b> urban setting.	
Point 4:	Based on insufficient info, and lack of evidence to the alternative, we of the mind that the proposed changes, especially in relation to land zoned residential, and within the new affected area (of 40 metres versus 20 metres) is ultra vires on a number of levels;	<p>The Land Drainage Act 1908, The Soil Conservation and Rivers Control Act 1958 and the Local Government Act 2002 give Regional Councils the powers:</p> <ul style="list-style-type: none"> <li>- to make bylaws (LGA s143)</li> <li>- to enforce all regulatory measures within Bylaws (LGA s143)</li> <li>- to “...undertake certain activities on, or in relation to, private land, including powers in relation to owners and occupiers...” (LGA s143)</li> <li>- to maintain drains... (LDA s 17)</li> <li>- to enter private lands for survey etc. (LDA s18)</li> <li>- to make drains from private lands... (LDA s 23)</li> </ul>	<b>Decline</b>
Point 5:	We are of the mind that the potential fees and charges that Council seek to impose to authorise and monitor activities within the proposed new areas in residential areas along the Whk stopbank are unfair, expensive and place undue burden on landowners with the said areas. If Council are successful at extended its bylaw proposed zone to include Whk pptides with the 20-40m area, then these fees should be waived.	BOPRC has waived the application fee for a Bylaws Authority application under the Flood Protection and Drainage Bylaws 2020. There are also no monitoring fees involved. The only cost to an applicant may be when specialist technical advice is given as part of a Bylaw authority and any cost to the landowner for mitigation measures outlined in a subsequent in a Bylaw Authority.	<b>Comment Noted</b>
Point 6:	Also, if the Regional Council is successful with its bylaw change to include the extended area sought, viz 20-40m along the Whk river in the residential zone, then Regional Council should pay for the additional mitigation works they require during earthworks for building a house or pole fence erection.	<p>The Local Government Act 2020 s150 allows BOPRC to prescribe fees under the Bylaw.</p> <p>BOPRC’s wider Revenue and Financing Policy, as outlined in the Long Term Plan, is that fees and charges are charged directly to users of a service or facility for the private benefit they receive.</p> <p>The concept of user-pays is consistent with the ‘benefit/contributor principle’, where the users pay for private benefit from the service. It is also consistent with the principle that those causing the need to undertake the activity pay for work required as a consequence. User charges are applied where it is not practical for Council to establish a</p>	<b>Decline</b>

		targeted rate on individual consumers to recover the cost of the service. Where user charges are impractical or ineffective, we may set a range of fees and charges to partly fund the private good component of an activity that delivers tangible private benefits.	
Point 7:	<p>Re evidence for Councils determination of increased distances, we have not seen any data or such from previous floods (in the urban zone, and along the Whakatane river for land in areas 20-40m away from the toe of the stopbank) suggesting the increased authority requirements. Nor have we seen any Geotech</p> <p>We understand from our review of the limited documentation sourced from Council thus far that the documentation is pertinent to affected areas of land in the rural zone and along the rivers other than the Whakatane river and therefore not relevant to the properties alongside Whakatane river stopbank IN THE RESEDENTIAL ZONE, use for residential purposes, and NOT DIRECTLY ADJACENT TO THE TOE OF THE WHAKATANE RIVERBANK (eg, land outside the 20m zone). IMPORTANTLY, We are also of the mind, that properties, such as our own, where only part of the land is affected (say less than 30%) by the proposed bylaw applicable area (40m from stopbank toe), then such</p>	<p>The Council does not intend to provide for exemptions in the Bylaws and prefer that these matters be dealt with on a case-by-case property basis as the Authority Application process allows. There are several reasons for this:</p> <ul style="list-style-type: none"> <li>• Council endeavour to treat people equitably and fairly and make every effort to ensure fairness in regulatory documents. The fundamental premise of regulatory documents is to treat all community members the same in the first instance.</li> <li>• To manage the outcome equitably– protection of the assets that protect communities from widespread flooding events - the foundation principle is that all members of that community have a part to play. If everyone has a part to play, no matter how small, then the rules should also apply to everyone.</li> </ul> <p>The engineering modelling has developed baseline Bylaw Applicable Areas given a range of variables, however, in nature these variables may continually vary along a river reach i.e. each property may have individual idiosyncrasies for each variable. Impractically, infinite models would be needed to reflect this (or each property would need to be surveyed, soil profiles, slope gradient measures etc. which would be cost and time prohibitive. Through the Bylaw Authority process an individual can be investigated by an engineer and the idiosyncrasies taken into account. Thus, if mitigation measures, are needed, they can be developed relevant to the exact site. Over time, staff hope to develop a database of on-ground data which will build a real picture of variables with a certain area. This could lead to less Bylaw Authorities being needed as property-scale data is collected.</p>	<b>Comment Noted</b>

	<p>properties that lie alongside the Whk river stopbank, and used for residential purposes, SHOULD BE EXCLUDED from the proposed bylaw. ALSO IMPORTANTLY - We also believe, that because of all of the aforementioned reasons, that existing owners of land within the proposed new applicable area (ie 20-40m from Whk stopbank toe), should be excluded from the bylaw... perhaps unless the land passes on to new owners in the future (grandfather provision?)</p>		
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<b>Submission ID:</b>	<b>0027 (Web ID: 18402)</b>
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?	Yes
Did you know about the Bylaws before today?	Yes
Comments	Yes but even though as a Affected Party as I am a property Owner within the Otara Waioeka River Catchment area I never received notification
Were you aware that the Bylaws could affect you?	Yes, this is the reason I which to participate and present this submission as I am an Affected Party
Which change(s) affect you? Ploughing? Earthworks? Horticulture infrastructure? BAA increases?	
Other?	
Do you agree that Council should have regulation for protecting flood assets?	The Toi Moana BOP Regional Council should have all action regulated and with this Bylaw maintain all the Rights Responsibilities and Protections under the Resource Management Plans

	and Annual Plan and Long Term Strategic Plans and reference to Hapu and Iwi Plans over the Awa in the areas of the Flooding Protection Schemes
Comment	
BAA changes	<p>Under the conditions of the Flood Protection and Drainage Bylaw Review I hold the status as an Affected Party as I am a property owner in the Otara and Waioeka River basin within the Opotiki District, and as Ngai Tamahaua Hapu I have an interest in the Review of the Flooding Protection and Drainage Bylaw and the 2020 Statement of Proposal for the Bylaw Review.</p> <p>As Ngai Tamahaua Hapu I have interest in the in the Waiotaha Scheme and Huntress Creek Scheme as these areas are areas within the rohe therefore Mana Whenua of our Hapu and the Huntress Creek Hikutawatawa is an area of significant cultural and historical importance to our Hapu and we believe should demand a high level of protection.</p> <p>I support the Ngai Tamahaua Hapu and Ngai Tai Iwi submissions to this Review of the Flooding Protection and Drainage Bylaw.</p> <p>In considering the Bylaw Documents to the 2020 Statement of Proposal for the Bylaw Review as a Property Owner and rate payer within a high flooding risk the documents presented did not clearly identify the proposed strategy of protection or where the established Flood Protection Assets have been established.</p> <p>The result of this we as Community have no ability to assess if our properties will be adequately protected especially with the environmental setting created by global warming and rising sea levels, and the Statement of Proposal for the Bylaw Review does not address these issues and there should be some analysis and planning response within the Bylaw to give full and comprehensive Flooding Protection.</p> <p>The 2020 Statement of Proposal for the Bylaw Review does not present the Flooding Protection Scheme and two of the issues I would like to present is the placement of any Flooding Protection Asset should be fully consulted with Land Owners, and Hapu who hold Mana Whenua status.</p> <p>No asset should be placed in an area of waahi tapu or site of cultural significant or site with environmental significance for flora and fauna and protection of the whenua and moana and the Bylaw presented does not ensure the protection of this areas as a focus</p> <p>The 2020 Statement of Proposal for the Bylaw Review also does not present to the Affected Party Group the Flooding Protection plan to show the current Scheme and installed Assets and where if any new installations are planned</p>



	<p>There is also the absence of information presented to show the plan response if Flooding occurs and the Urban Area is at risk and this should be fully declared before parties can commit to supporting this Bylaw</p> <p>Maori Community need to be fully informed about the Flooding Protection Strategy and the level of risk to their Marae and Maori Asset base within the catchments of the Waioeka and Otara Rivers and the protection given to their property of significant value to a large group within each Hapū</p> <p>There are also are number of other Rivers that create a Flooding Risk for the Community at Kutarere, Waiaua, Torere that have been created by drainage problems and the influence of global warming and rising sea levels and these areas of concern are outside of the Flooding Systems established under both the Regional Council and Opotiki District Council and these areas need to be reconsidered and given the same levels of protection as the Urban Township areas</p>		
Additional rules for pumiceous soils			
Additional Floodways			
Stock restrictions in drains			
Other comments	The Bylaw should also include Public Education on their behaviour that could damage Flood Protection Systems and also how they could contribute to protecting Flood Protection Assets		
<b>Staff Response:</b>			
Point 1:	In considering the Bylaw Documents to the 2020 Statement of Proposal for the Bylaw Review as a Property Owner and rate payer within a high flooding risk the documents presented did not clearly identify the proposed strategy of protection or where the established Flood Protection Assets have been established.	The purpose of these Bylaws is to provide a regulatory framework to protect and control council assets. This document is part of a suite of tools that manage the flood management schemes in the Bay of Plenty. The <i>Asset Management Framework</i> within the Asset management plan outlines Council’s strategic level focus for rivers and drainage management.	<b>Comment Noted</b>
Point 2:	The result of this we as Community have no ability to assess if our properties will be adequately protected especially with the environmental setting created by global warming and rising sea levels, and the Statement of Proposal for the Bylaw	Council has a comprehensive suite of documents that outline the overall strategy, levels of service and procedures for flood and assets management. There is also a wide range of technical advice available that supports Council’s current management practices. The documents include:	<b>Decline</b>

	Review does not address these issues and there should be some analysis and planning response within the Bylaw to give full and comprehensive Flooding Protection.	<ul style="list-style-type: none"> <li>- The Asset Management Plan, containing: <ul style="list-style-type: none"> <li>• Levels of Service</li> <li>• Asset Management Framework</li> </ul> </li> </ul> <p>This document is reviewed every 3 years alongside our Long Term Plan.</p> <p>A specific technical report was developed for the review of the Bylaws:</p> <ul style="list-style-type: none"> <li>- BOPRC <i>Flood Protection and Drainage Bylaw 2020 Technical Report</i>. 2020/01</li> <li>- <i>Bay of Plenty Regional Council Stopbank Design and Construction Guidelines</i>. 2014/01</li> </ul> <p>These documents are available on our website.</p>	
Point 3:	No asset should be placed in an area of waahi tapu or site of cultural significant or site with environmental significance for flora and fauna and protection of the whenua and moana and the Bylaw presented does not ensure the protection of this areas as a focus	<p>Bay of Plenty Regional Council has a statutory role in protecting communities from the effects of flooding. Council inherited a range of assets from catchment boards in the late 1980's with the focus of maintaining and improving these defences against flooding. The intention of these assets is to protect vulnerable sites from flood inundation.</p> <p>With this review, Bay of Plenty Regional Council has specifically addressed areas of waahi tapu and cultural significance, and the effect the Bylaws may have on these sites. Council engaged with some initial hapū to talk through concerns and possible solutions. A priority for Council is to engage with all affected hapū and iwi to co-design specific management plans for significant sites in Bylaw Applicable Areas.</p>	<b>Decline in Part</b>
Point 4:	There is also the absence of information presented to show the plan response if Flooding occurs and the Urban Area is at risk and this should be fully declared before parties can commit to supporting this Bylaw	<p>BOPRC has a planned response to every flooding event and has specific procedures in place in event of an emergency flood situation.</p> <p>I encourage you to visit our website:  <a href="https://www.boprc.govt.nz/living-in-the-bay/emergencies/flood-room">https://www.boprc.govt.nz/living-in-the-bay/emergencies/flood-room</a></p> <p>This web page outlines the overall process, provides information on events and provides live updates on a range of information including rainfall, civil defence information, river levels and links to District Councils and their information on flood events.</p>	<b>Comment Noted</b>
Point 5:	Maori Community need to be fully informed about the Flooding Protection Strategy and the level of risk to their Marae and Maori Asset base within the	<p>Bay of Plenty Regional Council has a statutory role in protecting communities from the effects of flooding. Council inherited a range of assets from catchment boards in the late 1980's with the focus of maintaining and</p>	<b>Comment Noted</b>

	catchments of the Waioeka and Otara Rivers and the protection given to their property of significant value to a large group within each Hapū	improving these defences against flooding. The intention of these assets is to protect vulnerable sites from flood inundation. With this review, Bay of Plenty Regional Council has specifically addressed areas of waahi tapu and cultural significance, and the effect the Bylaws may have on these sites. Council engaged with some initial hapū to talk through concerns and possible solutions. A priority for Council is to engage with all affected hapū and iwi to co-design specific management plans for significant sites in Bylaw Applicable Areas.	
Point 6:	There are also are number of other Rivers that create a Flooding Risk for the Community at Kutarere, Waiaua, Torere that have been created by drainage problems and the influence of global warming and rising sea levels and these areas of concern are outside of the Flooding Systems established under both the Regional Council and Ōpōtiki District Council and these areas need to be reconsidered and given the same levels of protection as the Urban Township areas	The purpose of the Bylaws is to provide a regulatory framework to protect and control council assets; including drains, pump stations, defences against water, erosion protection and floodways; managed by, or under the control of, the Bay of Plenty Regional Council. Assets are man-made flood and drainage defences that are organised in 'schemes'. The Bay of Plenty river schemes are managed and controlled by Council. Each scheme is overseen by a River Scheme Advisory Group. Membership of the Rivers Scheme Advisory Groups is representative of the different interests and locations within the scheme areas. The groups are designed to share knowledge and views on scheme management matters on behalf of local scheme ratepayers. The groups' advice on community values, objectives and possible solutions will help us make the best decisions for our river scheme projects, capital works, maintenance programmes and flood repairs. It should be noted that all rateable land in a scheme has a BOPRC targeted rate set to fund the rivers and drainage activities undertaking by Council on behalf of the community. Setting up new schemes would have some significant costs and may actually be cost prohibitive for some communities.	<b>Comment Noted</b>

<b>Submission ID:</b>	<b>0028</b>
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?	No

Main Submission points:		<div>1. FFNZ has close to 50 members within this succinct area affected by the Review.</div> <div>2. FFNZ generally supports the proposed changes to the current Flood Protection and Drainage Bylaw 2008</div> <div>3. FFNZ is concerned that in some instances the proposed amendments are overly cautious and being introduced without clear evidence that the current regime is not working</div> <div>4. We set out below the specific clauses that we consider overly restrictive and the relief sought. In summary these relate to:<div><div>a. Controlled grazing of the “bank of any drain”</div><div>b. Onerous restrictions on earthworks in Part 1</div><div>c. Stock access to stopbanks during natural disasters such as flooding</div><div>d. Further costs to farmers for existing erosion protection works</div><div>e. The need for a standard measurement point for earthworks and ploughing in Part 2.</div></div></div>	
Staff Response:			
Point 1:	FFNZ is concerned that in some instances the proposed amendments are overly cautious and being introduced without clear evidence that the current regime is not working. We note that the internal review undertaken by the Bay of Plenty Regional Council (“ <b>Council</b> ”) agrees that the existing Flood Protection and Drainage Bylaw 2008 is effective for protection and effective operation of the flood protection and drainage scheme assets that they manage.	<div>Read in context this statement is part of an explanation of the addition and changes in some rules:</div> <div>“An internal review of the ongoing effectiveness of the existing Bylaws has now been completed. <b>In most cases</b> it has been decided that the existing Bylaw rules are effective for protection and effective operation of the flood protection and drainage scheme assets managed by Council. <i>However, in the ten years since the last Bylaws were developed, there have been new developments in geotechnical thinking; a number of significant flood events; and progress in scientific fields such as climate change, water management and flood management. All of which Council has taken into account when reviewing the Bylaws. The review has highlighted some additional activities that when carried out in close proximity to assets, could have a detrimental effect on the integrity of these assets.</i>”</div>	Accept in Part
Point 2:	Oppose in part s 5.1.1(h):	<div>BOPRC support current best practices around fencing of waterways.</div> <div><i>Fencing waterways protects freshwater from nutrients, effluent and</i></div>	Decline

	<p>FFNZ supports that stock should only have access to drains under the control of Council where written authority has been given. However in many instances drain banks are a part of paddocks and in pasture. Controlled grazing on a rotational basis keeps the vegetation strong and deep-rooted adding stability to banks. It would be unreasonable to expect these farmers to obtain written authority before being able to use some of their pastured land that is a part of their existing grazing rotation.</p> <p>FFNZ proposes removal of reference to “bank of any drain” or in the alternate amend the clause to include “any bank of any drain which is in pasture and grazed on a controlled rotational basis is permitted activity and written authority is not required”.</p>	<p><i>sediment by excluding stock and creating a buffer between water and the land*. (*Dairy NZ)</i></p> <p>The fundamental premise of the Bylaws, however, is to protect assets. In the case of drains, protection of the structure of the drain and its banks is imperative to the free flow of water. Stock can cause pugging, slumping and erosion to drain banks which lead not only to breakdown of the banks but can also cause sediment build up in drains. Giving stock access to drains can also lead to nutrient discharge downstream. (And though the Bylaws do not address nutrients in water, BOPRC endeavours to align policy documents with best practice, current legislation and other BOPRC policy documents).</p>	
Point 3:	<p>Oppose s 5.2.1(g): <i>Proposed distances</i></p> <p>FFNZ opposes the distances proposed. These distances are unnecessarily onerous and in some cases may cut through large portions of our members farms, especially where the drain cuts through the middle of a property. Given that by the Council’s own analysis the current Bylaw provisions are considered effective in protecting the assets, the proposed distances are considered unreasonable and unnecessary. The existing 2008 distances should be retained.</p> <p><i>Earthworks</i></p>	<p>The rules applying to Bylaw Applicable Area 3 (toe of stopbank landward) are particularly important from the perspective of Council engineers. The BOPRC <i>Flood Protection and Drainage Bylaw 2020 Technical Report</i>. 2020/01, states that “There is a history of failures of stopbanks and other flood defences throughout the Bay of Plenty region. <b><i>A significant proportion of these failures have initiated beyond the embankments themselves</i></b>, on land not owned by the Bay of Plenty Regional Council. The Floodway and Drainage Bylaw was enacted to enable the Bay of Plenty Regional Council to control selected activities within potential failure zones. If unmanaged these activities can increase the risk of failures being initiated.</p> <p>This particular rule applies only to defences against water – usually stopbanks on rivers (though some drains do have stopbanks also in which this rule applies), so therefore the vast majority of drains cutting through the middle of a property will be unaffected.</p>	<b>Decline</b>

	FFNZ proposes that the definition of earthworks excludes the cleaning out of drains. The Rangitāiki River in particular has areas of porous material in the subsoil alongside banks. Cleaning out the drain helps maintain the integrity of the flood protections asset and works.	The definition of earthworks in the Bylaws is “...any activity that disturbs soil, including but not limited to, any activity that exposes, disturbs, places, deposits or removes soil.” However, this definition is not used in any rules applying to cleaning drains, only defences against water and in activities addressed in Part II of the bylaws in which case a Bylaw Authority would be needed. For clarity this clause refers to digging <i>new</i> drains within Area 3.	
Point 4:	Oppose in part s5.2.2: It is important that stock access to stopbanks is allowed in natural disasters such as floods to ensure animal safety. In large floods the only possibly way to get stock to safety is via stopbanks. FFNZ proposes that stock may access stopbanks in the event of natural disasters to ensure animal safety.	Grammatical error amended.  The Bylaws does not expressly prohibit stock from stopbanks. The intent of clause 5.2.2 is to prevent <i>damage</i> to defences against water.  As a note, usually there is sufficient warning of a storm event, allowing farmers to plan movement of stock from low lying areas. However, the movement of stock over stopbanks in a flooding situation would be considered an emergency situation and therefore prior written authority would not be needed.	<b>Accept in Part</b>
Point 5:	Oppose in part s 6: FFNZ supports the need to protect erosion protection works however it is unreasonable for farmers to be expected to pay for fencing around existing erosion protection works. FFNZ purposes that Council meet the costs for fencing these existing assets to ensure farmers are able to exclude stock.	Clause 6 does not expressly state that erosion protection works need to be fenced, however Council concedes that this would be the most practical measure This clause is new in the 2020 Bylaws in order to specifically protect erosion protection works. Erosion protection works are equally as important as defences against water for protecting asset integrity. Council’s standard practice when undertaking works is to provide the initial fencing as part of the project. Then the landowner would maintain the fence as part of the infrastructure of the property. All existing erosion protection works undertaken by the council since 2013 should be fenced under this policy. Therefore, there should be very few unfenced works sites existing.	<b>Decline in Part</b>
Point 6:	Support s12.1	The Regional Council appreciates your support. Thank you for taking the time to submit on the changes to the Flood Protection and Drainage Bylaws.	<b>Accept</b>

Point 7:	Support s13.4	The Regional Council appreciates your support. Thank you for taking the time to submit on the changes to the Flood Protection and Drainage Bylaws.	<b>Accept</b>
Point 8:	<p>Oppose in part Part II:</p> <p><i>Standard measurement point</i></p> <p>FFNZ understands that these proposed distances are necessary to prevent breach of stopbanks and that there is evidence to show that ploughing and cultivation has led to breaches of stopbanks in these areas due to the porous nature of the subsoils.</p> <p>In order to assist with compliance, our members require a standard point set from where that distance is measured from as the current drafting is considered too uncertain.</p> <p>FFNZ propose that the midpoint of the stopbank is most appropriate given that the toe of the stopbank can be variable.</p>	<p>For the purposes of the Bylaws, stopbanks have been divided into three areas, called Bylaw Applicable Areas (1,2 and 3). Each area has distinct rules and to undertake certain activities a Bylaw Authority application is needed by a landowner.</p> <p>The rules applying to Area 3 (toe of stopbank landward) are particularly important from the perspective of Council engineers. The BOPRC <i>Flood Protection and Drainage Bylaw 2020 Technical Report. 2020/01</i>, states that “There is a history of failures of stopbanks and other flood defences throughout the Bay of Plenty region. <b><i>A significant proportion of these failures have initiated beyond the embankments themselves</i></b>, on land not owned by the Bay of Plenty Regional Council. The Floodway and Drainage Bylaw was enacted to enable the Bay of Plenty Regional Council to control selected activities within potential failure zones. If unmanaged these activities can increase the risk of failures being initiated. Beyond these river margins, now referred to as BAAs it is considered that normal farming and building activities should have negligible influence of flood defence security.”</p> <p>Each stopbank is specifically designed for the conditions at a particular site or stretch of river. Each design is drawn to precise design specifications, calculations, and measurements. These specification drawings are kept on file at BOPRC offices, so that the information is readily available to emergency works, maintenance, and upgrade works. Each design specifically identifies where the designed toe is situated.</p> <p><i>*For further information see Bay of Plenty Regional Council Stopbank Design and Construction Guidelines. 2014/01.</i></p> <p>If Areas 3 started at the crest of the Stopbanks there would be difficulty interpreting the rules for area 2 as opposed to Area 3 leading to confusion for landowners.</p> <p>In reality, the point of these part II rules is that certain activities within the <i>vicinity</i> of a stopbank will always need bylaw authority.</p>	<b>Decline in Part</b>

Point 9:	<p><b>Support Part III:</b></p> <p>FFNZ supports the free flow of water in a flooding situation. The current term “any material” does not provide enough clarity to ensure compliance.</p> <p>FFNZ proposes that this clause should also include examples of what “any material” may include , in particular highlighting the following:</p> <ul style="list-style-type: none"> <li>• Silage stacks;</li> <li>• Haybarns; and</li> <li>• Bale storage</li> </ul> <p>that may float or restrict water flow in these areas.</p>	<p>The Regional Council appreciates your support. Thank you for taking the time to submit on the changes to the Flood Protection and Drainage Bylaws.</p> <p>The intent of Part III (a) is that <i>anything</i> that disturbs or inhibits the free flow of water through a floodway, spillway or ponding is prohibited. Prior written authority may be obtained for some things so contacting the Council to discuss the specific options is encouraged.</p>	<b>Accept in Part</b>
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<b>Submission ID:</b>		<b>0029</b>	
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?		Yes	
Main Submission points:		Mr Connor is particularly concerned by the formal identification of the ‘Waioeka Floodway’ (“Proposed Floodway”) on his farm through the bylaw.	
<b>Staff Response:</b>			
Point 1:		Bay of Plenty Regional Council has formally identified the Waioeka overland flow path as a Floodway in the BOPRC Flood Protection and Drainage Bylaws 2020. As part of the Waioeka-Otara Scheme, the floodway contributes significantly to the management of high water in a flood situation. The scheme was originally designed, constructed, and is maintained in a way that a preferential flood path through the property was and is, an integral element.	<b>Comment Noted</b>



		Regional Council are working with Mr Connor to develop a specific plan for this part of his property.	
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<b>Submission ID:</b>		<b>0030</b>	
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?		No	
Main Submission points:		<ol style="list-style-type: none"><li>1. It would have been good to have a hui with the Rangitāiki Hapu Coalition in regards to the proposed bylaw</li><li>2. Within BOPRC Bylaw Applicable Areas we (landowners) have to ask you for authority to do any earthworks on our land</li><li>3. Marae within the lower reaches of the Rangitāiki River have Urupa within the Bylaw Applicable Areas. Does this mean that every time we dig a grave in our urupa we have to apply for authority?</li><li>4. Several of our marae are situated within the Bylaw Applicable Areas. Does this mean that every time we dig a hole for our hangi, dig a fence-post or plant harakeke to help mitigate erosion; we have to apply for authority</li><li>5. Land adjacent to and surrounding many of our Ngati Awa ki Rangitāiki marae is Maori Reserve, utilised for maara kai. Again we question the application for authority to carry out cultural practices (seasonal planting) on our Whenua Māori</li><li>6. We recommend BOPRC consider exemptions for the likes of Whenua Maori, Marae, Maori Reserves and Waahi tapu</li></ol>	
<b>Staff Response:</b>			
Point 1:	Marae within the lower reaches of the Rangitāiki River have Urupa within the Bylaw Applicable Areas. Does this mean that every time we dig a grave in our urupa we have to apply for authority?	Bay of Plenty Regional Council would like to take this opportunity to thank you for taking part in engagement on the effects the Bylaws could have on the traditional cultural practices and areas of waahi tapu carried out by Kura Paul-Burke carried out in Jul – Aug 2020. Feedback provided from her report has been invaluable in developing a more inclusive Bylaws document, with specific clauses addressing the unique circumstances of managing areas of waahi tapu and significance.	<b>Accept in Part</b>
Point 2:	Several of our marae are situated within the Bylaw Applicable Areas. Does this		<b>Accept in Part</b>

	mean that every time we dig a hole for our hangi, dig a fence-post or plant harakeke to help mitigate erosion; we have to apply for authority	Bay of Plenty Regional Council intends engaging with you further on the co-design of specific management plans for whenua Māori within the Bylaws Applicable Areas.	
Point 3:	Land adjacent to and surrounding many of our Ngati Awa ki Rangitāiki marae is Maori Reserve, utilised for maara kai. Again we question the application for authority to carry out cultural practices (seasonal planting) on our Whenua Māori.		<b>Accept in Part</b>
Point 4:	We recommend BOPRC consider exemptions for the likes of Whenua Maori, Marae, Maori Reserves and Waahi tapu		<b>Decline in Part</b>

<b>Submission ID:</b>		<b>0031</b>	
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?		No	
Main Submission points:		It is TRONA’s expectation that the Bay of Plenty Regional Council have direct engagement with us to co-design and co-develop any rule framework that affects our rohe. The Bay of Plenty Regional Council has failed in its duties to date and we do not support the current proposal.	
<b>Staff Response:</b>			
Point 1:	It is TRONA’s expectation that the Bay of Plenty Regional Council have direct engagement with us to co-design and co-develop any rule framework that affects our rohe. The Bay of Plenty Regional	Bay of Plenty Regional Council would like to take this opportunity to thank you for taking part in engagement on the effects the Bylaws could have on the traditional cultural practices and areas of waahi tapu carried out by Kura Paul-Burke carried out in Jul – Aug 2020. Feedback provided from her report has been invaluable in developing a more inclusive Bylaws document, with specific	<b>Accept</b>

	Council has failed in its duties to date and we do not support the current proposal.	clauses addressing the unique circumstances of managing areas of waahi tapu and significance. Bay of Plenty Regional Council intends engaging with you further on the co-design of specific management plans for whenua Māori within the Bylaws Applicable Areas.	
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<b>Submission ID:</b>		<b>0032</b>	
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?		Yes	
Main Submission points:		See full submission document for detail of submission points.	
<b>Staff Response:</b>			
Point 1:	Amend the definition of “Earthworks” as follows: “Earthworks” means any activity that disturbs soil, including but not limited to, any activity that exposes, disturbs, places, deposits or removes soil to a depth of greater than 300mm, but excludes <del>See also the definition for “small-scale backyard cultivation”</del> (the latter being separately defined).	Definition changed to: “Earthworks” means any activity that disturbs soil, including but not limited to, any activity that exposes, disturbs, places, deposits or removes soil. See also the definition for “small-scale gardening”.	<b>Accept</b>
Point 2:	Amend the definition of “Small-scale Backyard Cultivation” as follows: “Small-scale Backyard Cultivation” means the disturbance of soil for the purpose of small-scale growing of crops (vegetables), ornamentals (flowers) and small shrubs in backyards; to a depth of no more than 300mm.	Definition changed to: “ <b>Small-scale gardening</b> ” means the disturbance of soil for the purpose of small-scale growing of crops (vegetables), ornamentals (flowers) and small shrubs in backyards; to a depth of no more than 300mm.	<b>Accept</b>

Point 3:	s5 Application of Part 1: The second paragraph is redundant and should be deleted. It adds nothing beyond that which is stated in the first paragraph (it just makes the same point in the negative). Delete the second paragraph in Section 5 – Application of Part 1.	It became evident in the pre-consultation engagement with the community, that there are those who have little knowledge of the Bylaws and the application of the rules. The statements outlining which assets and areas are, <b>and are not</b> , relevant to the Bylaws is important, and therefore the statement will remain unchanged.	<b>Decline</b>
Point 4:	Provide an exclusion in Section 5.1.1 (i) so that the installation, replacement, maintenance and removal of pipes and hydrants within 12 metres of a drain (measured from the lip of the drain) are permitted without the need for written authority from BOPRC.	It is not Councils intention to prohibit any activity within the Bylaw Applicable Areas. These areas are identified in the Bylaws to indicate that certain activities may need 'prior written authority' before they are undertaken. The Bylaw Authority process enables the landowner/leasee to communicate with Council about the intended activities and discuss any mitigation measures needed given the proximity to a council Defence Against Water (e.g. stopbank). Independent engineering advice given to Council (ICE Geo & Civil, 2020) outlines the potential failure risk earthworks creates close to Council assets that are present to protect surrounding land from flooding in high rainfall situations. The advice outlines the effect earthworks has on the heave potential of surface silt layers when rivers are in flood. Soil heave can result in piping of the underlying sand/pumice layers which in turn can contribute to asset failure. The premise of the earthworks specific rules in the Bylaws is for Council to work with the landowner/lessee to develop bespoke mitigation measures at specific sites with Bylaw Applicable Areas.	<b>Decline</b>
Point 5:	(a) Fonterra opposes the extent of, and proposed management regime relating to, Area 3 as shown on the diagram in Section 5.2 of the Bylaws. Specifically, Fonterra opposes the 200m extent of Area 3 in relation to the Rangitāiki River and the Rangitāiki Floodway and the restrictions that relate to Area 3.	(a) (c) (d) Staff recommend working with Fonterra to develop management plans for written authorities that have specific, best practice mitigations for a type of work being undertaken, and apply a time limit for a particular work period, e.g. <ul style="list-style-type: none"> <li>• Develop management plans for annual maintenance programmes.</li> <li>• Develop management plans for best practice operations for emergency works.</li> </ul>	<b>Accept in Part</b>

	<p>Fonterra is happy to accept Area 3 being 200m if the rules were more accommodating and did not result in everything requiring written authority. The need for 'written authority' from BOPRC for any form or scale of earthworks on the Edgumbe site or the Awaroa Farm is excessive and unnecessary.</p> <p>(b) Fonterra seeks that Section 5.2.1 b. of the Bylaws provide for existing vegetation (as of the date of notification of the Bylaws) in Areas 1 or 2 or within 12m of the landwards toe of any defence against water in Area 3 to be retained and maintained without the need for written authority from BOPRC.</p> <p>(c) Fonterra seeks that the Bylaws in relation to Area 3 adjacent to the Rangitāiki Floodway be amended to provide for the following activities without the need for written authority from BOPRC:</p> <ul style="list-style-type: none"> <li>▪ Construction and maintenance fences;</li> <li>▪ Earthworks associated with the installation or repairing of water pipes and stock drinking troughs;</li> <li>▪ The placement, installation, use, operation, maintenance and removal of hydrants, pipes, bayonets / sprinklers / pods and other infrastructure associated with the spray irrigation of dairy factory wastewater onto the land; and</li> </ul>	<p>(b) The new Bylaw rules do not exist retrospectively and can only be applied to new activities after the Bylaws legal commencement date. Any existing vegetation constructed under the 2008 Bylaws remain compliant in terms of Bylaws (though Clause 5.5.1 (c) would apply).</p> <p>(e) If this is an established race then the new bylaws do not apply retrospectively, however the maintenance and removal of the race at any time would need a Bylaw Authority, as mitigation measures may need to be implemented</p> <p>(f) <b>Clause 5.2.1 (g) – accept</b> Explanation made into a rule (5.2.1 (g) (iii)) <b>Clause 5.2.2 (b) explanation – decline</b> Staff do not consider this explanation needs to be a rule as it is explanatory only for the above clause.</p>	
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	<ul style="list-style-type: none"> <li>▪ Earthworks of no more than 300mm in depth.</li> </ul> <p>(d) The outcomes sought above should also apply in relation to Part II of the Bylaws as they relate to the pumiceous soils in relation to the Rangitāiki Floodway.</p> <p>(e) Fonterra seeks that Area 3 adjacent to the Rangitāiki Floodway is reduced (if necessary) so as to ensure that it does not include the farm race that runs in a north south direction parallel to the Rangitāiki Floodway.</p> <p>(f) Amend the 'explanations' in Sections 5.2.1 g. and 5.2.2 to state as rules those parts of the 'explanations' that are, in fact, rules.</p>		
Point 6:	<p>(a) Amend the first sentence of Section 12.1 to read:          "Prior Written Authority must be sought <u>and obtained</u> before undertaking any activity <del>outlined</del> <u>requiring written authority as specified</u> in these Bylaws."</p> <p>(b) Amend Section 12.1 a. to provide guidance as to what information needs to be provided as part of any request for written authority under the Bylaws.</p> <p>(c) Amend Section 12.1 to include a new clause specifying the criteria that BOPRC will apply to the assessment and determination of any request for written authority.</p> <p>(d) Provide an explanation at the end of Section 12.1 as to the process and</p>	<p>(a) <b>Accept</b></p> <p>(b) Guidance on what is required for Bylaw Authority application is not appropriate within a regulatory document. Substantial instructions will be given in a separate Guidance document as part of the 2020 Bylaws Implementation.</p> <p>(c) A specific standard operating procedure will be developed as part of the 2020 Bylaws implementation. The SOP will be part of a suite of implementation guidance material developed outside the Bylaws document to guide and educate those affected by the Bylaws.</p> <p>(d) Timeframes for the Bylaw Authority Application process will be outlined in the SOP outlined in (c) above.</p>	<b>Accept in Part</b>

	timeframes that will be followed and adhered to by BOPRC in relation to the processing of any request for written authority.		
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<b>Submission ID:</b>		<b>0033</b>	
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?		No	
Main Submission points:		See full submission document for detail of submission points.	
<b>Staff Response:</b>			
Point 1:	Clause 5.2.1 (f) (iii): How does this relate to other BOPRC policies and plans e.g. Regional Natural Resources Plan.  No guidance is provided as to what is considered appropriate (under Cl 12.1 b.), what the appropriateness thresholds are, e.g. mai-mai.	The Flood Protection and Drainage Bylaws 2020 and plans BOPRC Natural Resources Plan have different legislative drivers. The Bylaws are developed under the Local Government Act 2002 and most of BOPRC's other plans are developed under the Resource Management Act 1991, therefore the fundamental purpose and outcomes are different and there is only a minor relationship between them. That said Council does strive to remain consistent with terminology. The definition of 'structure' is similar in the Bylaws and the RNRP. Staff consider a mai-mai to be structures. Mai-mai construction is regulated by guidelines issued jointly by DOC and F&G. It would be expected that if a new mai-mai was planned for within a BAA area then those constructing it would contact the Regional council for advice and possible Bylaw Authority.	<b>Comment Noted</b>
Point 2:	Clause 5.2.1 (g) (iii): This combined with the Part II Bylaws (see below) effectively quarantines the low lying TK14 land from permitted activities and existing land use rights.	It is not Councils intention to prohibit any activity within the Bylaw Applicable Areas. These areas are identified in the Bylaws to indicate that certain activities may need 'prior written authority' before they are undertaken. The Bylaw Authority process enables the landowner/leasee to communicate with Council about the intended activities and discuss any mitigation measures needed given the proximity to a council Defence Against Water (e.g. stopbank).	<b>Decline in Part</b>

	<p>How does this relate to other BOPRC policies and plans e.g. Regional Natural Resources Plan.</p> <p>No guidance is provided as to what is considered appropriate (under CI 12.1 b.), what the appropriateness thresholds are, e.g. permitted rural activities.</p>	<p>It should be noted that the new Bylaw rules do not exist retrospectively, and can only be applied to new activities after the Bylaws legal commencement date.</p> <p>“Existing use rights” are created under section 10 of the <i>Resource Management Act 1991</i> to protect land uses under District Plans which may have been permitted under one version of a Plan but after review are no longer permitted.</p> <p>The Flood Protection and Drainage Bylaws 2020 are developed under the <i>Local Government Act 2002</i>, which does not consider existing use rights. In a legal sense – existing use rights do not apply. However, there are circumstances in which this <i>concept</i> of ‘existing use rights’ may be applied. For example, if an activity was undertaken under the 2008 Bylaws and a Bylaws authority was obtained then the product of that activity is existing and can remain.</p> <p>The Bylaws regulate activities which may have a detrimental effect on regional council flood protection and drainage assets. The new Bylaw rules do not exist retrospectively, and can only be applied to new activities after the Bylaws legal commencement date.</p>	
Point 3:	<p>Clause 12.1 Written Authority:</p> <p>No guidance with respect of requirements for a written authority.</p> <p>No guidance as to what is considered appropriate, what the appropriateness thresholds are, or how this interfaces with other policies and plans e.g. Regional Natural Resources Plan.</p> <p>This clause provides BOPRC unfettered authority with no consideration of permitted land uses or existing use rights.</p>	<p>Guidance on what is required for Bylaw Authority application is not appropriate within the regulatory document. Substantial instructions will be given in a separate Guidance document as part of the 2020 Bylaws Implementation.</p> <p>A specific standard operating procedure will be developed as part of the 2020 Bylaws implementation. The SOP will be part of a suite of implementation guidance material developed outside the Bylaws document to guide and educate those affected by the Bylaws.</p>	<b>Comment Noted</b>
Point 4:	Part II:	As part of the new Bylaws document full maps of each river scheme will be added to ensure Bylaw Applicable Area and asset identification.	<b>Accept</b>



	<p>Part II of this Bylaw applies to all stopbanks, bunds, bank protection works, crossings, drains, pumps, structures and other scheme assets in the lower reaches of the Kaituna, Rangitāiki and Tarawera Rivers that are managed by or under the control of the Council.</p> <p>It is not clear what assets are captured by this Part and what assets impact the TK14 land holdings.</p>		
Point 5:	<p>Part II clause (b) and (d):</p> <p>We don't know where the prescribed Kaituna Stopbanks are and if they affect TK14.</p> <p>Very onerous condition, no digging, maintenance, any other earthworks, fencing (incl. replacement) or ploughing, effectively quarantines this land.</p> <p>No guidance with respect of requirements for a written authority.</p> <p>No guidance as to what is considered appropriate, what the appropriateness thresholds are, or how this interfaces with other policies and plans e.g. Regional Natural Resources Plan.</p>	<p>It is not Council's intention to prohibit any activity within the Bylaw Applicable Areas. These areas are identified in the Bylaws to indicate that certain activities may need 'prior written authority' before they are undertaken. The Bylaw Authority process enables the landowner/leasee to communicate with Council about the intended activities and discuss any mitigation measures needed given the proximity to a council Defence Against Water (e.g. stopbank).</p> <p>Independent engineering advice given to Council (by ICE Geo &amp; Civil, 2020) outlines the potential failure risk ploughing, fencing and earthworks creates close to Council assets that are present to protect surrounding land from flooding in high rainfall situations. The advice outlines the effect these activities have on the heave potential of surface silt layers when rivers are in flood. Soil heave can result in piping of the underlying sand/pumice layers which in turn can contribute to asset failure. The premise of the ploughing specific rules in the Bylaws is for Council to work with the landowner/lessee to develop bespoke mitigation measures at specific sites with Bylaw Applicable Areas.</p> <p>The BOPRC <i>Flood Protection and Drainage Bylaw 2020 Technical Report</i>. 2020/01 outlines the effects these activities may have in BAA areas and is available on the BOPRC website</p>	Choose an item.

<b>Submission ID:</b>		<b>0034</b>	
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?		No	
Main Submission points:			
<b>Staff Response:</b>			
Point 1:	Clause 5.2.1 (f) (iii): How does this relate to other BOPRC policies and plans e.g. Regional Natural Resources Plan.  No guidance is provided as to what is considered appropriate (under CI 12.1 b.), what the appropriateness thresholds are, e.g. mai-mai.	The Flood Protection and Drainage Bylaws 2020 and plans BOPRC Natural Resources Plan have different legislative drivers. The Bylaws are developed under the Local Government Act 2002 and most of BOPRC’s other plans are developed under the Resource Management Act 1991, therefore the fundamental purpose and outcomes are different and there is only a minor relationship between them. That said Council does strive to remain consistent with terminology. The definition of ‘structure’ is similar in the Bylaws and the RNRP. Staff consider a mai-mai to be structures. Mai-mai construction is regulated by guidelines issued jointly by DOC and F&G. It would be expected that if a new mai-mai was planned for within a BAA area then those constructing it would contact the Regional council for advice and possible Bylaw Authority.	<b>Comment Noted</b>
Point 2:	Clause 5.2.1 (g) (iii): This combined with the Part II Bylaws (see below) effectively quarantines the low lying TK14 land from permitted activities and existing land use rights. How does this relate to other BOPRC policies and plans e.g. Regional Natural Resources Plan.  No guidance is provided as to what is considered appropriate (under CI 12.1 b.), what the appropriateness thresholds are, e.g. permitted rural activities.	It is not Councils intention to prohibit any activity within the Bylaw Applicable Areas. These areas are identified in the Bylaws to indicate that certain activities may need ‘prior written authority’ before they are undertaken. The Bylaw Authority process enables the landowner/leasee to communicate with Council about the intended activities and discuss any mitigation measures needed given the proximity to a council Defence Against Water (e.g. stopbank). It should be noted that the new Bylaw rules do not exist retrospectively, and can only be applied to new activities after the Bylaws legal commencement date. “Existing use rights” are created under section 10 of the <i>Resource Management Act 1991</i> to protect land uses under District Plans which may have been permitted under one version of a Plan but after review are no longer permitted.	<b>Decline in Part</b>

		<p>The Flood Protection and Drainage Bylaws 2020 are developed under the <i>Local Government Act 2002</i>, which does not consider existing use rights. In a legal sense – existing use rights do not apply.</p> <p>However, there are circumstances in which this <i>concept</i> of ‘existing use rights’ may be applied. For example, if an activity was undertaken under the 2008 Bylaws and a Bylaws authority was obtained then the product of that activity is existing and can remain.</p> <p>The Bylaws regulate activities which may have a detrimental effect on regional council flood protection and drainage assets. The new Bylaw rules do not exist retrospectively, and can only be applied to new activities after the Bylaws legal commencement date.</p>	
Point 3:	<p>Clause 12.1 Written Authority: No guidance with respect of requirements for a written authority. No guidance as to what is considered appropriate, what the appropriateness thresholds are, or how this interfaces with other policies and plans e.g. Regional Natural Resources Plan. This clause provides BOPRC unfettered authority with no consideration of permitted land uses or existing use rights.</p>	<p>Guidance on what is required for Bylaw Authority application is not appropriate within the regulatory document. Substantial instructions will be given in a separate Guidance document as part of the 2020 Bylaws Implementation.</p> <p>A specific standard operating procedure will be developed as part of the 2020 Bylaws implementation. The SOP will be part of a suite of implementation guidance material developed outside the Bylaws document to guide and educate those affected by the Bylaws.</p>	<b>Comment Noted</b>
Point 4:	<p>Part II: Part II of this Bylaw applies to all stopbanks, bunds, bank protection works, crossings, drains, pumps, structures and other scheme assets in the lower reaches of the Kaituna, Rangitāiki and Tarawera Rivers that are managed by or under the control of the Council.</p>	<p>As part of the new Bylaws document full maps of each river scheme will be added to ensure Bylaw Applicable Area and asset identification.</p>	<b>Accept</b>

	It is not clear what assets are captured by this Part and what assets impact the FLH land holdings.		
Point 5:	<p>Part II clause (a) (b) and (d): We don't know where the prescribed Kaituna Stopbanks are and if they affect TK14. Very onerous condition, no digging, maintenance, any other earthworks, fencing (incl. replacement) or ploughing, effectively quarantines this land. No guidance with respect of requirements for a written authority. No guidance as to what is considered appropriate, what the appropriateness thresholds are, or how this interfaces with other policies and plans e.g. Regional Natural Resources Plan.</p>	<p>It is not Council's intention to prohibit any activity within the Bylaw Applicable Areas. These areas are identified in the Bylaws to indicate that certain activities may need 'prior written authority' before they are undertaken. The Bylaw Authority process enables the landowner/leasee to communicate with Council about the intended activities and discuss any mitigation measures needed given the proximity to a council Defence Against Water (e.g. stopbank). Independent engineering advice given to Council (by ICE Geo &amp; Civil, 2020) outlines the potential failure risk ploughing, fencing and earthworks creates close to Council assets that are present to protect surrounding land from flooding in high rainfall situations. The advice outlines the effect these activities have on the heave potential of surface silt layers when rivers are in flood. Soil heave can result in piping of the underlying sand/pumice layers which in turn can contribute to asset failure. The premise of the ploughing specific rules in the Bylaws is for Council to work with the landowner/lessee to develop bespoke mitigation measures at specific sites with Bylaw Applicable Areas. The BOPRC <i>Flood Protection and Drainage Bylaw 2020 Technical Report</i>. 2020/01 outlines the effects these activities may have in BAA areas and is available on the BOPRC website.</p>	Choose an item.

<b>Submission ID:</b>	<b>0035 Submission withdrawn 24 August 20</b>

<b>Submission ID:</b>	<b>0036</b>
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?	Yes
Main Submission points:	See full submission for details

<b>Staff Response:</b>			
Point 1:	We request that Council updates and makes available GIS data showing the new Bylaws control zones as well as the assets to which they apply.	As part of the new Bylaws document full maps of each river scheme will be added to ensure Bylaw Applicable Area and asset identification.	<b>Accept</b>
Point 2:	We seek further engagement on the possibility of exemptions for routine state highway works	<p>Staff recommend working with NZTA to develop a bespoke process for written authorities that have specific, best practice mitigations for a type of work being undertaken, and apply a time limit for a particular work period, e.g.</p> <ul style="list-style-type: none"> <li>• Develop written authorities for annual maintenance programmes.</li> <li>• Develop written authorities for best practice operations for emergency works.</li> </ul>	<b>Accept</b>
Point 3:	Part III: Use of the phrase “in the opinion of Council” introduces discretion instead of an objective measure	<p>Council accepts that phrase does imply discretion on the part of the council.</p> <p>As part of the Implementation Plan for the 2020 Bylaws a number of Standard operating procedures and guidance document are being developed. A criteria and rationale will be developed on the rationale for what is likely to obstruct the free flow of water in a floodway.</p>	<b>Accept</b>

Point 4:	We request a copy of the Engineering report that supports the Bylaws	The BOPRC <i>Flood Protection and Drainage Bylaw 2020 Technical Report</i> . 2020/01 outlines the effects these activities may have in BAA areas and is available on the BOPRC website.	<b>Accept</b>
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<b>Submission ID:</b>		<b>0037</b>	
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?		No	
Main Submission points:		<div>1. From a high level, Firstgas supports the intent to change the purpose of the Bylaw to include “to protect and control”;</div> <div>2. Firstgas supports the proposed changes to the Earthworks definition providing the compliance pathway to Firstgas and Firstgas’s contractors is clearly defined and efficient;</div> <div>3. There may be some occasions where works undertaken by Firstgas generate short term adverse environmental effects;</div> <div>4. Firstgas supports controls being put in place regarding the instillation of subsoil drainage, again, providing the approval process is well defined, efficient and considers any other regulation processes the applicant may be undertaking (5.1.1);</div> <div>5. Firstgas supports the proposed Earthworks controls providing any subsequent approval process is clearly defined and efficient. (5.2.1.(g));</div> <div>6. The identification of the Gas Transmission Network, including Delivery Points which form part of the network, on any regulation mapping documents/ GIS, to ensure visibility of the network for map users; and</div> <div>7. Please ensure that the final Mapping /GIS produced to accompany this regulation be clear and well defined to ensure users can quickly and easily identify the areas where these controls take effect.</div>	
<b>Staff Response:</b>			
Point 1:	From a high level, Firstgas supports the intent to change the purpose of the Bylaw to include “to protect and control”	The Regional Council appreciates your support. Thank you for taking the time to submit on the changes to the Flood Protection and Drainage Bylaws	<b>Comment Noted</b>

Point 2:	Firstgas supports the proposed changes to the Earthworks definition providing the compliance pathway to Firstgas and Firstgas's contractors is clearly defined and efficient	The Regional Council appreciates your support. Thank you for taking the time to submit on the changes to the Flood Protection and Drainage Bylaws	<b>Comment Noted</b>
Point 3:	Firstgas supports controls being put in place regarding the installation of subsoil drainage, again, providing the approval process is well defined, efficient and considers any other regulation processes the applicant may be undertaking (5.1.1)	The Regional Council appreciates your support. Thank you for taking the time to submit on the changes to the Flood Protection and Drainage Bylaws	<b>Comment Noted</b>
Point 4:	Firstgas supports the proposed Earthworks controls providing any subsequent approval process is clearly defined and efficient. (5.2.1.(g))	The Regional Council appreciates your support. Thank you for taking the time to submit on the changes to the Flood Protection and Drainage Bylaws	<b>Comment Noted</b>
Point 5:	Please ensure that the final Mapping /GIS produced to accompany this regulation be clear and well defined to ensure users can quickly and easily identify the areas where these controls take effect.	As part of the new Bylaws document full maps of each river scheme will be added to ensure Bylaw Applicable Area and asset identification.	<b>Accept</b>

<b>Submission ID:</b>	<b>0038 Submission withdrawn 24 August 20</b>	

<b>Submission ID:</b>	<b>0039 submission withdrawn 5 May 2020</b>	

<b>Submission ID:</b>	<b>0040</b>
Address	No
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?	No
Did you know about the Bylaws before today?	Yes
Comments	Our property borders the Rangitāiki River. We have submitted a few bylaw applications in the past for developing a kiwifruit orchard and have worked with BOPRC to achieve a positive outcome.
Were you aware that the Bylaws could affect you?	Earthworks, Horticulture, Bylaw applicable area increases
Which change(s) affect you? Ploughing? Earthworks? Horticulture infrastructure? BAA increases?	
Other?	
Do you agree that Council should have regulation for protecting flood assets?	Yes
Comment	Having a processing timeline for bylaw applications to give both parties clarity when planning tasks affected by the bylaw, this bylaw and the proposed changes are extremely restrictive for landowners meaning nothing can be done on their property without authority, landowners have the right to hold the council to a reasonable timeframe for processing these authorities.
BAA changes	Increasing the restricted area distance from the stopbank, taking away our right to cultivate soil up to 300mm deep and drive / dig a post 1.5m deep in the lower reaches of the Rangitāiki river is too restrictive on landowners. I would like to see evidence that the Council would be able to adequately manage processing the additional requests for authority if every landowner abided by these increased restrictions. I would be happy for a reduction in depth on the driving / digging of a post to say 0.8m deep and Authority required within 30m of stopbank.
Additional rules for pumiceous soils	
Additional Floodways	
Stock restrictions in drains	
Other comments	Why has installing subsoil drainage been removed as a permitted activity?



		These changes wouldn't be so Orwellian and bureaucratic if some of the more common sense areas were "permitted with consultation of the BOPRC" rather than not allowed unless Authority given! The affected landowners do have some rights.	
<b>Staff Response:</b>			
Point 1:	Having a processing timeline for bylaw applications to give both parties clarity when planning tasks affected by the bylaw	Specific standard operating procedure will be developed as part of the 2020 Bylaws implementation. The SOP's will be part of a suite of implementation guidance material developed outside the Bylaws document to guide and educate those affected by the Bylaws. Timeframes for the Bylaw Authority Application process will be outlined in a specific SOP for applications,	<b>Accept</b>
Point 2:	Increasing the restricted area distance from the stopbank, taking away our right to cultivate soil up to 300mm deep and drive / dig a post 1.5m deep in the lower reaches of the Rangitāiki river is too restrictive on landowners. I would like to see evidence that the Council would be able to adequately manage processing the additional requests for authority if every landowner abided by these increased restrictions.	It is not Council's intention to prohibit any activity within the Bylaw Applicable Areas. These areas are identified in the Bylaws to indicate that certain activities may need 'prior written authority' before they are undertaken. The Bylaw Authority process enables the landowner/leasee to communicate with Council about the intended activities and discuss any mitigation measures needed given the proximity to a council Defence Against Water (e.g. stopbank). <i>The BOPRC Flood Protection and Drainage Bylaw 2020 Technical Report. 2020/01 outlines the effects these activities may have in BAA areas and is available on the BOPRC website</i>	<b>Decline in Part</b>
Point 3:	Why has installing subsoil drainage been removed as a permitted activity?	It is not Councils intention to prohibit any activity within the Bylaw Applicable Areas. These areas are identified in the Bylaws to indicate that certain activities may need 'prior written authority' before they are undertaken. The Bylaw Authority process enables the landowner/leasee to communicate with Council about the intended activities and discuss any mitigation measures needed given the proximity to a council Defence Against Water (e.g. stopbank). Independent engineering advice given to Council (ICE Geo & Civil, 2020) outlines the potential failure risk earthworks, including subsoils drain installation, maintenance and removal; creates close to Council assets that are present to protect surrounding land from flooding in high rainfall	<b>Comment Noted</b>

		situations. The advice outlines the effect earthworks has on the heave potential of surface silt layers when rivers are in flood. Soil heave can result in piping of the underlying sand/pumice layers which in turn can contribute to asset failure. The premise of the earthworks specific rules in the Bylaws is for Council to work with the landowner/lessee to develop bespoke mitigation measures at specific sites with Bylaw Applicable Areas.	
Point 1:			Choose an item.

<b>Submission ID:</b>	<b>0041</b>
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?	No
Did you know about the Bylaws before today?	Yes
Comments	
Were you aware that the Bylaws could affect you?	No, as the current Bylaw only applies within 20m of the stopbank adjacent to the Whakatāne River and my property is a greater distance than that. It is now captured by the proposal to increase the distance to 40m.
Which change(s) affect you? Ploughing? Earthworks? Horticulture infrastructure? BAA increases?	Earthworks, Bylaw applicable area increase
Other?	
Do you agree that Council should have regulation for protecting flood assets?	Yes. It is important that the integrity of flood assets, particularly stopbanks, are not undermined by activities that could increase the risk of a breach or seepage. It is fair that some reasonable restrictions can be placed on affected landowners to achieve this outcome, but that a global approach to managing flood assets through a Bylaw will lead to increased administration and enforcement. The success will be in getting the balance right.
Main Submission Points:	I support measures that appropriately control ground disturbance that could increase the risk of seepage in and around the stopbank.

		However, I also think there is a fine line between the practical application of a blanket “applicable area” approach and compliance with homeowners who are probably not aware of the change and/or who will simply not seek authorisations.	
<b>Staff Response:</b>			
Point 1:	The focus of the Bylaw appears to predominantly focus on rural activities. My interest is as a residential homeowner in an urban environment and how the Bylaw may affect normal residential activities.	The purpose of the Bylaws is to provide a regulatory framework to protect all council assets. Certain ground penetrating activities can compromise the integrity of the assets ability to provide protection from flood events, this is especially true in the urban setting where intensification of activities occurs. The Bylaws are developed under the Local Government Act which provides Council with the ability to develop regulation under s 149 to protect council assets whether those assets are in a rural or urban setting.	<b>Comment Noted</b>
Point 2:	The main change in the Bylaw that may directly affect me is the increase in width of the applicable Bylaw area to 40m from the landward toe of the stopbank along the Whakatāne River. More specifically, it is the difference between 20m and 40m where the risk is not so much directly on the integrity of the stopbank, but appears to be aimed at reducing the risk of seepage through piping and heaving. I also think there is a fine line between the practical application of a blanket “applicable area” approach and compliance with homeowners who are probably not aware of the change and/or who will simply not seek authorisations.	It is not Councils intention to prohibit any activity within the Bylaw Applicable Areas. These areas are identified in the Bylaws to indicate that certain activities may need ‘prior written authority’ before they are undertaken. The Bylaw Authority process enables the landowner to communicate with Council about the intended activities and discuss any mitigation measures that may be needed given the proximity to a Council Defence Against Water (e.g. a stopbank). There will be eventualities where few mitigation measure may be needed and these will be determined by a site specific survey of the property to take into account a range localised parameters, including soil profile, elevation of property, properties of the asset and the activity to be undertaken. The unimportant point is that the landowner has engaged with council and together they have developed a site specific plan within the BAA.	<b>Comment Noted</b>
Point 3:	The Bylaw does recognise and provide for “small-scale backyard cultivation”, meaning the disturbance of soil for the	It is not Council’s intention to prohibit any activity within the Bylaw Applicable Areas. Certain activities are identified in the Bylaws to indicate that they need ‘prior written authority’ before they are	<b>Comment Noted</b>

	<p>purpose of small-scale growing of crops (vegetables), ornamentals (flowers) and small shrubs in backyards; to a depth of no more than 300mm". This will include gardening in a residential context, and that is appropriate.</p> <p>However, it also seems appropriate for the Bylaw to recognise other minor residential activities that would have the same or similar or less effects as "small scale backyard cultivation" on the integrity of flood assets. Examples might be:</p> <ul style="list-style-type: none"> <li>- Earthworks to enable the laying of cobbles, a concrete driveway or the foundation for a garden shed or garage.</li> <li>- A retaining wall that will probably have foundations deeper than 300mm but the wall could be providing stability of the soil it is supporting or otherwise adding weight or rigidity to the flood control structures in place.</li> </ul>	<p>undertaken. The Bylaw Authority process enables the landowner/leasee to communicate with Council about the intended activities and discuss any mitigation measures needed given the proximity to a council Defence Against Water (e.g. stopbank). Applying for a Bylaws authority (and talking through activity plans with council is free) ensure that any mitigation measures are built into a plan.</p>	
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<b>Submission ID:</b>	<b>0042</b>
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?	No
Main Submission points:	See full submission for details

<b>Staff Response:</b>			
Point 1:	Wish to raise a complaint to the process of consultation initiated by Council during the COVID-19 lockdown period	<p>Council undertook a substantial engagement and communications process in late 2019, with targeted workshops and Opens Days being held in October and November respectively. Open Days for each scheme were advertised in newspapers, social media, and radio to capture those affected. Each landowner affected was also sent a letter outlining the process and the opportunities for involvement in formal consultation. Unfortunately the COVID-19 lockdown occurred in March – April 2020 at the time of the formal submission period for the Proposed Bylaws. The Local Government Act 2002 (LGA) requires Council to undertake a comprehensive review of its bylaws ten years after they were last reviewed; and complete the review within a two year time frame from that review date. If the Bylaws were not reviewed, as required under the Act, then they would have been revoked under the LGA section 160A. This was the premise under which Council continued consultation of the Bylaws under the COVID-19 lockdown.</p> <p>In relation to the issues faced by Local Government from COVID-19 during lockdown, Central Government established a Local Government Response Unit. The Unit was tasked with finding solutions to problems caused by legislative requirements – such as regulatory timeframes. Staff raised the matter of the revocation issues noted above with them. Ministers approved progressing temporary legislative changes to address issues arising from the COVID-19 emergency.</p> <p>This temporarily suspends the provision that automatically revokes bylaws after 2 further years if they were not renewed within the required period.</p> <p>The suspension of this provision will be in place until 30 June 2021 meaning that any bylaws that would be automatically revoked before this date will continue in force until then.</p> <p>This changed the underlying premise that Council had adopting the Bylaws before July 2020 and interested parties were given the opportunity to be heard at Hearings postponed until August 2020.</p>	<b>Comment Noted</b>

Point 2:	<p>We also submit that the proposed Flooding Protection and Drainage Bylaw, and 2020 Statement of Proposal for the Bylaw Review must maintain all the protective mechanisms contained within the Resource Management Act, Regional Council Policies and Annual and Long Term Plans, and our iwi Plans and it is unclear that within the proposed Bylaw whether these acknowledgements and protections have been maintained.</p>	<p>The Bylaws are reviewed under the Local Government Act 2002 which specifically gives mandate to, and directs Council to, develop Bylaws to protect flood protection assets and drains. The Bylaws are not developed under any of the provisions of the RMA 1991; however, the Council ensures that all activities, maintenance, and control remain compliant with the RMA and all regional council policies, strategies, and plans. Council also consider those policies and plan developed by other entities including iwi management plans.</p> <p>The updated Bylaws introduction now specifically recognises the unique relationship Māori have with their ancestral lands, water, sites, waahi tapu and other taonga.</p>	<b>Comment Noted</b>
Point 3:	<p>As Ngai Tai iwi we have an interest in the Waiaua River, the Tirohanga Creek, and Tōrere River, and Wainui River which have flooding issues that affect our people, and we believe that these awa should be reviewed and included in a Flooding Protection Strategy that protects the Whenua and Whanau and land usage activities.</p> <p>There are also are number of other Rivers that create a Flooding Risk for the Community at Kutarere, Waiaua, Tōrere that have been created by drainage problems and the influence of global warming and rising sea levels and these areas of concern are outside of the Flooding Systems established under both the Regional Council and Ōpōtiki District Council and these areas need to be reconsidered and given the same levels of protection as the Urban Township areas.</p>	<p>The purpose of the Bylaws is to provide a regulatory framework to protect and control council assets; including drains, pump stations, defences against water, erosion protection and floodways; managed by, or under the control of, the Bay of Plenty Regional Council.</p> <p>Assets are man-made flood and drainage defences that are organised in 'schemes'. The Bay of Plenty river schemes are managed and controlled by Council, however, each scheme is overseen by a River Scheme Advisory Group.</p> <p>Membership of the Rivers Scheme Advisory Groups are members of the community who are representative of the different interests and locations within the scheme areas. The groups are designed to share knowledge and views on scheme management matters on behalf of local scheme ratepayers. The groups' advice on community values, objectives and possible solutions help council make the best decisions for our river scheme projects, capital works, maintenance programmes and flood repairs the Council.</p> <p>It should be noted that all rateable land in a scheme has a BOPRC targeted rate set to fund the rivers and drainage activities undertaking by Council on behalf of the community.</p> <p>Setting up new schemes would have some significant costs and may actually be cost prohibitive for some communities.</p>	<b>Comment Noted</b>

Point 4:	Ngai Tai iwi Authority state that with any Bylaw established over the Whenua with a potential to have a negative impact on the Mana Motuhake and Rangatiratanga of Hapu and iwi requires the Regional Council to facilitate full, open, and transparent consultation with the Mana Whenua.	Part of the Bylaws 2020 Implementation plan will be to undertake a comprehensive engagement and education programme with landowners and tangata whenua. As the Bylaws document is only the regulatory framework part of a whole suite of tools to manage and protect freshwater, land and significant places, the ongoing engagement will endeavour to take a holistic approach to whole catchment management.	<b>Comment Noted</b>
Point 5:	There should also be the acknowledgement and inclusion of Mātauranga Maori and application of our Tikanga to ensure that areas within the River Schemes of significant cultural and historical importance are given a high level of protection.	With this review, Bay of Plenty Regional Council has specifically addressed areas of waahi tapu and cultural significance, and the effect the Bylaws may have on these sites. Council engaged with some initial hapū to talk through concerns and possible solutions. A priority for Council is to engage with all affected hapū and iwi to co-design specific management plans for significant sites in Bylaw Applicable Areas.	<b>Comment Noted</b>
Point 6:	The 2020 Statement of Proposal for the Bylaw Review does not present the current Flooding Protection Scheme, and the future development plan for placement of new Flood Protection Assets. In the planning the placement of any future Flooding Protection Asset should be fully consulted with Land Owners, and Hapu and iwi who hold Mana Whenua status	The purpose of these Bylaws is to provide a regulatory framework to protect and control council assets. This document is part of a suite of tools that manage the flood management schemes in the Bay of Plenty. The <i>Asset Management Framework</i> within the Asset management plan outlines Council's strategic level focus for rivers and drainage management.	<b>Comment Noted</b>
Point 7:	As Ngai Tai iwi we also believe that no asset should be placed in an area of waahi tapu or site of cultural significance or any site of environmental significant for flora and fauna and protection of the whenua and moana, and the Bylaw presented does not ensure the protection of this areas	As part of this review Bay of Plenty Regional Council undertook targeted engagement with some hapū on the effects the Bylaws could have on the traditional cultural practices and areas of waahi tapu. This was carried out by Kura Paul-Burke in Jul – Aug 2020. Feedback provided from her report has been invaluable in developing a more inclusive Bylaws document, with specific clauses addressing the unique circumstances of managing areas of waahi tapu and significance. Bay of Plenty Regional Council intends engaging with you further on the co-design of specific management plans for whenua Māori within the Bylaws Applicable Areas.	<b>Comment Noted</b>

Point 8:	Maori Community need to be fully informed about the Flooding Protection Strategy and the level of risk to their Marae and Maori Asset base within the catchments of the Waioweka and Otara Rivers and other areas not covered by the current identified schemes over the Waioweka, Otara and Waioatahe Rivers.	The purpose of these Bylaws is to provide a regulatory framework to protect and control council assets. This document is part of a suite of tools that manage the flood management schemes in the Bay of Plenty. The <i>Asset Management Framework</i> within the Asset management plan outlines Council's strategic level focus for rivers and drainage management.	<b>Comment Noted</b>
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<b>Submission ID:</b>		<b>0043</b>	
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?		No	
Main Submission points:		See full submission for detail	
<b>Staff Response:</b>			
Point 1:	That the Bay of Plenty Regional Council fulfil their responsibility under Te Tiriti O Waitangi to initiate full consultation with Ngai Tamahaua Hapu in good faith, that will give full protection to the Mauri of both Awa of the Otara and Waioweka, and including the Waioatahe and Hikatawatawa Huntress Creek being awa within identified Flood Protection Plans.	As part of this review Bay of Plenty Regional Council undertook targeted engagement with some hapū on the effects the Bylaws could have on the traditional cultural practices and areas of waahi tapu. This was carried out by Kura Paul-Burke in Jul – Aug 2020. Feedback provided from her report has been invaluable in developing a more inclusive Bylaws document, with specific clauses addressing the unique circumstances of managing areas of waahi tapu and significance. Bay of Plenty Regional Council intends engaging with you further on the co-design of specific management plans for whenua Māori within the Bylaws Applicable Areas.	<b>Accept in Part</b>
Point 2:	The Bay of Plenty Regional Council should produce clear evidence that the proposed Bylaw and Flood Protection Scheme: <ul style="list-style-type: none"><li>• will be environmentally sustainable</li></ul>	Bay of Plenty Regional Council intends engaging with you further on the co-design of specific management plans for whenua Māori within the Bylaws Applicable Areas.	<b>Comment Noted</b>



	<ul style="list-style-type: none"> <li>• There will not be any negative impact on the mauri of the awa and the life in the awa</li> <li>• will not have negative impact on the Water of the river, the quality of the water and the aquifers being fed by the awa</li> <li>• will not have negative impact on any waahi tapu, sites of cultural significance.</li> </ul>		
Point 3:	Set the Flood Protection and Drainage Bylaw within a Strategy to adopt an integrated holistic approach that sees the awa as whole systems that incorporates Mātauranga Maori Standards that protects the mauri of the awa to maintain the quality of Wai/Water, the riverbed and bird and fish and plant life and the life cycle and the wellbeing both within and alongside the river channel.	The purpose of these Bylaws is to provide a regulatory framework to protect and control council assets. This document is part of a suite of tools that manage the flood management schemes in the Bay of Plenty. The <i>Asset Management Framework</i> within the Asset management plan outlines Council's strategic level focus for rivers and drainage management.	<b>Comment Noted</b>
Point 4:	<p>It is our Ngai Tamahaua submission to the Toi Moana Bay of Plenty Regional Council that flooding and drainage problems are a significant issue for the Communities surrounding the river within the Ōpōtiki District but not included within the current Bylaw, includes;</p> <ul style="list-style-type: none"> <li>• Wainui River and Torere River</li> <li>• Waiaua River Waiaua River, Opape River Tirohanga River and Motu River.</li> <li>• Te Kakaho River Kutarere</li> </ul> <p>and there should be in a plan acknowledgement and processes addressing the issues of flooding and drainage to</p>	<p>The purpose of the Bylaws is to provide a regulatory framework to protect and control council assets; including drains, pump stations, defences against water, erosion protection and floodways; managed by, or under the control of, the Bay of Plenty Regional Council.</p> <p>Assets are man-made flood and drainage defences that are organised in 'schemes'. The Bay of Plenty river schemes are managed and controlled by Council. Each scheme is overseen by a River Scheme Advisory Group. Membership of the Rivers Scheme Advisory Groups is representative of the different interests and locations within the scheme areas. The groups are designed to share knowledge and views on scheme management matters on behalf of local scheme ratepayers. The groups' advice on community values, objectives and possible solutions will help us make the best decisions for our river scheme projects, capital works, maintenance programmes and flood repairs the Council.</p>	<b>Decline in Part</b>

	protect these Communities to the same level as other Communities and Urban areas within the District of Ōpōtiki	It should be noted that all rateable land in a scheme has a BOPRC targeted rate set to fund the rivers and drainage activities undertaken by Council on behalf of the community. Setting up new schemes would have some significant costs and may actually be cost prohibitive for some communities.	
Point 5:	The Flood Protection and Drainage Bylaw needs to give enhanced protection to sites of cultural and historical significance, and where hapu and iwi have Cultural Assets like Marae on low lying land and are in the pathway of awa therefore have higher levels of risk from Flooding. The Bylaw and Flooding Protection Plan should clearly prescribe how this Cultural Assets are to be protected	As part of this review Bay of Plenty Regional Council undertook targeted engagement with some hapū on the effects the Bylaws could have on the traditional cultural practices and areas of waahi tapu. This was carried out by Kura Paul-Burke in Jul – Aug 2020. Feedback provided from her report has been invaluable in developing a more inclusive Bylaws document, with specific clauses addressing the unique circumstances of managing areas of waahi tapu and significance. Bay of Plenty Regional Council intends engaging with you further on the co-design of specific management plans for whenua Māori within the Bylaws Applicable Areas.	
Point 6:	As Ngai Tamahaua Hapu we wish to raise the issue relating to the lack of due process that the Toi Moana Bay of Plenty Regional Council's decision to enact a Bylaw Review process while New Zealand is within an Alert Level 4 COVID-19 National Emergency. The consultation period opened on the 27th March 2020 and closed on the 28th April 2020 citing the new Bylaws must be in place before the 30th June 2020 or our current 2008 Bylaws will be automatically revoked under the Local Government Act 2002	Council undertook a substantial engagement and communications process in late 2019, with targeted workshops and Opens Days being held in October and November respectively. Open Days for each scheme were advertised in newspapers, social media and radio to capture those affected. Each landowner affected was also sent a letter outlining the process and the opportunities for involvement in formal consultation. Unfortunately, the COVID-19 lockdown occurred in March – April 2020 at the time of the formal submission period for the Proposed Bylaws. The Local Government Act 2002 (LGA) requires Council to undertake a comprehensive review of its bylaws ten years after they were last reviewed; and complete the review within a two year time frame from that review date. If the Bylaws were not reviewed, as required under the Act, then they would have been revoked under the LGA section 160A. This was the premise under which Council continued consultation of the Bylaws under the COVID-19 lockdown.	

		<p>In relation to the issues faced by Local Government from COVID-19 during lockdown, Central Government established a Local Government Response Unit. The Unit was tasked with finding solutions to problems caused by legislative requirements – such as regulatory timeframes. Staff raised the matter of the revocation issues noted above with them. Ministers approved progressing temporary legislative changes to address issues arising from the COVID-19 emergency.</p> <p>This temporarily suspends the provision that automatically revokes bylaws after 2 further years if they were not renewed within the required period.</p> <p>The suspension of this provision will be in place until 30 June 2021 meaning that any bylaws that would be automatically revoked before this date will continue in force until then.</p> <p>This changed the underlying premise that Council had adopting the Bylaws before July 2020 and interested parties were given the opportunity to be heard at Hearings postponed until August 2020.</p>	
Point 7:	<p>The Bylaw documents did not provide in indication of costs to the ratepayers within the Ōpōtiki District of the planned Flooding Protection Scheme</p> <p>The Plan should present all costing and be held to a level that is financial affordable to the ratepayer group.</p> <p>Commercial Properties should pay the full cost to protect their assets within their own budgets and this includes the Ōpōtiki Harbour Development and not place a rates burden on current or future ratepayers when they are not financially benefitting from commercial developments.</p> <p>It is also fair that other ratepayers in more rural settings like Waiotaha, Kutarere, Waiaua, Opape and Torere get support and</p>	<p>The cost to ratepayer is reviewed every 3 years with Councils long term plan process. Council's Long Term Plan details the relevant rating information, finance policies and rates funding impact statements. Council prepares an infrastructure strategy and several asset management plans to ensure that it maintains the right levels of service. Bay of Plenty Council will be consulting on the LTP 2021 – 2031 early 2021.</p>	

	flood protection for their lands and homes as the urban area of Ōpōtiki.		
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<b>Submission ID:</b>	<b>0044</b>
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?	No
Main Submission points:	

<b>Staff Response:</b>			
Point 1:	<p>Along with its elevation, the entire area of the Willow lane properties is surrounded by a deep drain which is below any sand filtration levels so it can't be affected by post driving or the likes. This drain has performed its purpose for 38 years with no overflow issues.</p> <p>Hence no inclusion needed.</p> <p>A lot of these bylaws &amp; reviews are part of the complexities brought about by Central &amp; Local governments.</p> <p>These complexities, I believe, will revert to the old tried &amp; proven basic ways of doing things in the future, like it did in the Kiwifruit industry in the early 90's.</p> <p>This will be brought about by the future economic climate that we will be embracing after COVID 19.</p> <p>Again using the kiwifruit example.</p> <p>The back to basics will help eliminate future flooding events such as the two devastating Plains floods.</p>	The Regional Council appreciates your support. Thank you for taking the time to submit on the changes to the Flood Protection and Drainage Bylaws.	<b>Comment Noted</b>

	<p>This will be by maintaining &amp; using the recording data in the Galatea region, set up years ago, for monitoring rainfall, drainage &amp; the controlling of the Aniwhenua &amp; Matahina Dam flood gates. Also it will respond more appropriately to the reports of the two seepage areas that translated into the two devastating floods.</p> <p>This back to basics will be due to smaller teams with greater practical knowledge of what is needed instead of going from one department to another before action is take or even sometimes lost.</p> <p>My response only pertains to the immediate local area.</p>		
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<b>Submission ID:</b>	<b>0045</b>
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?	No
Main Submission points:	Interested in the outcomes of the Bylaws review
<b>Staff Response:</b>	

<b>Submission ID:</b>	<b>0046</b>
Due to COVID-19 we are still working through what this might mean for face to face hearings. Do you wish to be heard?	yes

Main Submission points:		Would like this late submission accepted as during COVID-19 Lockdown they could not review with their clients.	
Staff Response:			
Point 1:	<p>The Flood Protection and Drainage Bylaw includes the Lower Kaituna Drainage Scheme encompassing the Rangiuru Business Park (RPB). Existing drainage within Stage 4 of the RPB connects to the Diagonal Drain network, as shown on the GIS map below, and is currently protected by the Bylaw.</p> <p>The existing open drainage could therefore be excluded from the Flood Protection and Drainage Bylaws once the stormwater drainage pond has been established. The intent would be to make efficient use of developable land within the Industrial Zone that might otherwise be adversely affected by the Bylaw i.e. 12-metre buffer zone restrictions on development (24 meters) , restrictions on altering the course of the drain, and/or creating additional crossings over the drain. Any industrial development proposed near the drain can be adequately assessed through consenting pathways under Large Scale Earthworks and Drainage Consent Applications.</p>	<p>It is not Councils intention to provide for exemptions in the Bylaws and prefer that these matter be dealt with on a case-by-case property basis as the Authority Application process allows. There are several reasons for this:</p> <ul style="list-style-type: none"><li>• Council endeavour to treat people equitably and fairly and make every effort to ensure fairness in regulatory documents. The fundamental premise of regulatory documents is to treat all community members the same in the first instance.</li><li>• To manage the outcome equitably– protection of the assets that protect communities from widespread flooding events - the foundation principle is that all members of that community have a part to play.</li><li>• The engineering modelling has developed baseline distances for drain margins. Impractically, infinite models would be needed to reflect variations at specific sites, or each property would need to be surveyed, soil profiles, slope gradient measures etc. which would be cost and time prohibitive. Through the Bylaw Authority process an activity can be investigated by an engineer and the idiosyncrasies taken into account. Thus, if mitigation measures, are needed, they can be developed relevant to the exact site.</li><li>• Part of the conversation in this case would be to review options for how open drain 69 would be managed.</li></ul>	Decline

