

Land drainage and flood control

Recommendations in response to submissions on the Proposed Regional Plan for Northland - Section 42A hearing report

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Author: Michael Day
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Table of contents

Purpose and format of the report	3
Report author	4
About the land drainage and flood control provisions	4
Overview of submissions.....	5
Rule C.4.3 - Repair and maintenance of stopbanks, floodgates and drains.....	6
Submissions and analysis	6
Recommendation	7
Evaluation of recommended changes.....	7
Land drainage and flood control general conditions	8
Submissions and analysis	8
Recommendation	10
Evaluation of recommended changes.....	10
Other matters	11
Appendix A - Response to other matters raised in submissions	12

Purpose and format of the report

1. This report provides the hearing panel the rationale for the recommended changes to the Land drainage and flood control provisions in the Proposed Regional Plan for Northland (the Plan) in response to submissions. The recommended changes are set out in the document *Proposed Regional Plan for Northland – S42A recommended changes*.
2. The recommendations made in this report are mine and are not binding on the hearing panel. It should not be assumed that the hearing panel will reach the same conclusions.
3. In addition, my recommendations may change as a result of presentations and evidence provided to the hearing panel. It's expected the hearing panel will ask authors to report any changes to their recommendations at the end of the hearing.
4. My recommendations focus on changes to the Plan provisions. If there is no recommendation, then it's to be assumed that the recommendation is to retain the wording as notified.
5. Generally, the specific recommended changes to the provisions are *not* set out word-for-word in this report. The specific changes (including scope for changes) are shown in the document *Proposed Regional Plan for Northland – S42A recommended changes*.
6. This report is structured with a focus on the key matters for the land drainage and flood control provisions raised in submissions. The key matters are:
 - Repair and maintenance of stopbanks, floodgates and drains (C.4.3)
 - Land drainage and flood control general conditions
7. Matters covered by submissions that fall outside the key matters are addressed in the "Other matters" section in less detail.
8. The approach of addressing matters raised in submissions (rather than addressing submissions and/or and submission points individually) is consistent with Clause 10 of Schedule 1 to the RMA.
9. This report should be read in conjunction with section 5.4 – *Land drainage and river control activities* in the Section 32 report.

Report author

10. My name is Michael Day and I have overall responsibility for this report. I am the Resource Management Manager for Northland Regional Council (regional council) and have been employed by the regional council since 2008. For further details about my qualifications and experience, refer to the s42 report: *General approach*.
11. The following council staff have assisted me with the preparation of this report:
 - Stuart Savill, Consents Manager, Northland Regional Council
 - Toby Kay, Natural Hazards Advisor, Northland Regional Council
 - Geoff Heaps, Consents Officer, Northland Regional Council
12. Although this is a council hearing, I have read the Code of Conduct for Expert Witnesses contained in the Practice Note issued by the Environment Court December 2014. I have complied with that Code when preparing this report and I agree to comply with it when giving oral presentations.

About the land drainage and flood control provisions

13. The relevant provisions in the Proposed Regional Plan for 'land drainage and flood control' addressed in this report are:

Definitions

- Land drainage
- Land drainage scheme

Rules

- C.4.1 Land drainage – permitted activity
- C.4.2 Existing authorised stopbanks – permitted activity
- C.4.3 Repair and maintenance of a stopbank, floodgate or drain – permitted activity
- C.4.4 Re-consenting flood control schemes – controlled activity
- C.4.5 Land drainage schemes – controlled activity
- C.4.6 Other land drainage and flood control activities – discretionary activity
- C.4.7 Activities affecting flood control schemes – discretionary activity
- C.4.8 Land drainage and flood control general conditions

Policies

- D.4.25 – Activities affecting flood control schemes
- D.4.26 – New land drainage

Maps

- Drainage districts
- Flood control schemes

14. This report does not cover wetland or general structures in waterbodies (these are addressed in the s42A report: *Wetlands and beds of lakes and rivers*).
15. Section 5.4.3 of the Section 32 analysis report accompanying the Proposed Regional Plan outlines:
 - why land drainage occurs in Northland,
 - describes the various Acts that provide local authorities drainage and flood control powers, and
 - that nothing these Acts shall deviate from responsibilities and restrictions under the RMA, meaning that if the RMA (or plans prepared under the RMA) require a resource consent be obtained for a structure or an activity then this must still happen).
16. For context, I consider it is also useful to briefly discuss existing land drainage and flood control schemes in Northland.
17. There are 34 active (rated) drainage areas in Northland. The vast majority (28) are in the Kaipara district, 4 are in the Far North and 2 are in the Whangārei district. The respective district councils manage the land drainage schemes. These 'schemes' tend to consist of a network of culverts and drainage channels, floodgates, bunds and stopbanks. All schemes were established well before the RMA was enacted in 1991.
18. The regional council manages 'flood control' schemes in Northland. These include Awanui, Kaeo and Kaihū. Management of these schemes is undertaken in accordance with a River Management Plan in consultation with liaison committees. The aim of the schemes is to reduce river flood risk, whereas the main purpose of drainage schemes is to enable land to be used for primary production on an ongoing basis. The schemes typically involve the maintenance of scheme assets, such as stopbanks, spillways and floodgates, and the removal of accumulated sediments or vegetation from river channels. These works are generally funded via income from rates.

Overview of submissions

19. A total of 31 submitters made submissions on the *land drainage and flood control* provisions, and these were broken up into 72 submission points.

20. Broadly, the submitters can be grouped as:
- District councils/central government agencies
 - Landowner/individuals
 - Companies/corporations
 - Environmental protection groups

Rule C.4.3 - Repair and maintenance of stopbanks, floodgates and drains

Submissions and analysis

21. There were 13 submissions on this rule (C.4.3). Three submitters (Federated Farmers, Kiwirail and Landcorp Farming Ltd) supported the rule as notified.
22. Four submitters (Cathcart B, Kaipara District Council, Whangarei District Council and Morrison G & P) sought amendments to the rule relating to the level of protection/dimensions of structures. I do not consider that it is appropriate to contemplate an increase (even minor) in dimensions of these type of protection structures within a permitted activity rule framework. This is because when the height of protection structures (such as stopbanks) are raised, it leads to an increase in the potential for flooding for upstream or downstream properties – even a small change could result in significant impacts. I believe that any increase in height, width or dimensions of stopbanks needs to be subject to the resource consent process so that any potential adverse environmental effects can be assessed. I have sought advice from Toby Kay (regional council's Natural Hazards Advisor), who agrees with my recommendation.
23. Two submitters (Stevens V and Hayes M) sought to delete clause 3, relating to council notification. I do not consider it appropriate to remove the notification requirements for repair and maintenance of stopbanks or floodgates. However, taking into account the submission from Horticulture New Zealand, I have recommended a new stand-alone rule for the repair, maintenance and clearing of drains. As proposed, this rule does not require council notification, because the potential for any adverse effects of concern is low and it is a common activity. This aside, as mentioned above, I still recommend that the notification requirements for stopbanks and floodgates should remain because of the potential for adverse environmental effects.

24. Two submitters (Miru M and Tinopai RMU Ltd) are seeking to amend clause 3 so that tangata whenua are given notification if the activity occurs within an Area of Significance to Tangata Whenua. I do not support this request because the rule relates to repair and maintenance of existing assets (stopbanks, floodgates or drains) in often highly modified environments. It does not provide for the creation of new structures, thereby minimising the risk of potential adverse effects.
25. Northland Fish and Game are requesting reference to the Schedule of Values¹ within this rule otherwise retain rule as notified. This submission does not provide enough information about the nature of the 'Schedule of Values' for me to be able to assess the merits of the proposal. For example, from what I can tell from the information provided in the submission, the costs of developing the 'Schedule' (which the submitter suggests should be at the river reach scale) would be significant. It is not clear how these would compare with the benefits of the 'Schedule'.
26. Horticulture New Zealand have requested the deletion of reference to drains within this rule and are asking for a new stand-alone rule for the maintenance and clearing of drains. I agree that as notified, the proposed rule is not clear that it will allow for the cleaning and clearing of drains as a permitted activity. I also agree with the submitter that it would be of assistance to include a 'standalone' rule for the repair and maintenance/clearing of drains as clearing of drains is aligned with good management practice as it prevents the build-up of site and other vegetation/material. I therefore recommend including a new rule specifically for repair/maintenance/clearing of drains.

Recommendation

27. I recommend the following changes:
- Delete all references to drains within rule C.4.3
 - Include a new permitted activity rule for the maintenance, repair and cleaning of drains.

Evaluation of recommended changes

28. Section 32AA, RMA requires an evaluation of proposed changes to the Plan. The changes, while potentially more than minor in effect, are considered to be within the scope

¹ See submission point 29(e) on page 7 of Fish and Game Submission.

of the preferred management option as set out in Section 5.4 of the Section 32 report and therefore do not require further evaluation.

Land drainage and flood control general conditions

Submissions and analysis

29. There were 12 submissions on the general conditions (C.4.8).
30. Two submitters (Morrison G & P and Stevens V) supported the conditions as notified.
31. Kaipara District Council and Whangarei District Council are seeking to amend condition 6); "... ~~where it may~~ is likely to be carried into a river...". Whangarei District Council have also requested that condition 13) is amended to read no significant discharge of sediment. I do not support the requested amendment to condition 6) because I consider that changing the existing wording 'where it may' to 'is likely to' would result in a 'lowering of the bar' and therefore would increase the risk/chance of vegetation/soil/sediment entering waterways or the coastal marine area and causing adverse effects. Similarly, I also do not support the requested amendment to condition 13) as I consider that it would result in an increased risk of adverse environmental effects occurring.
32. Heritage NZ have requested the insertion of a note at the start of the section essentially saying that work affecting archaeological sites is subject to an authority process under the Heritage New Zealand Act. They are also seeking amendments to condition 3) as well as new conditions 14) and 15 relating to works not being within a Historic Heritage Area or activities not modifying or destroying historic heritage that has not yet been assessed for significance.
33. I support the inclusion of a note at the start of the land drainage and flood control general conditions regarding authority processes under the Heritage New Zealand Act. This is consistent with notes in other sections of the Proposed Plan regarding Heritage NZ processes. I consider this will assist with ensuring that land drainage works minimise the risk of harm/damage to archaeological sites. I also recommending to delete condition 3) as the regional council does not have jurisdiction to manage historic heritage on land.
34. I do not recommend including the requested condition 14) relating to works not being within a Historic Heritage Area within the general conditions. This is because most of the rules relate to existing structures/assets or maintenance of these assets. I also do not support the requested condition 15) regarding historic heritage that has not yet been

assessed. I consider that the addition of the proposed note at the start of the general conditions will ensure that risk to historic heritage is minimised.

35. Horticulture New Zealand have requested the deletion of condition 11). Kurmann A has requested to include a soluble nutrient limit for drainage water discharge from any farmed land and cultivated forests. Horticulture New Zealand have not provided any reasoning other than the condition is uncertain. I consider that deleting this condition will increase the risk of adverse effects arising from land drainage and flood control activities. Kurmann A has not provided any reasoning and I am therefore unable to consider the merits of the request.
36. The Minister of Conservation has requested amendments to condition 12) as well as the insertion of a raft of new conditions to limit the potential damage to freshwater fish. I support the recommended inclusion of a condition relating to koura (freshwater crayfish) and kakahi (freshwater mussels) unintentionally removed during clearing of drainage channels. I do not support any of the other recommended amendments or new conditions. The Minister does not provide any reasons why additional changes are requested other than to limit the potential damage to freshwater fish. I consider that my recommended changes to the general conditions adequately manages potential adverse effects on freshwater fish, and strikes the most appropriate balance between allowing land drainage activities to occur without the need for resource consent approval, whilst minimising the risk of harm to freshwater fish.
37. Northland District Health Board have requested a new condition as follows - (14) any discharge does not contain concentrations of contaminants which have or are likely to have any more than minor adverse effect on source water for human consumption as per National Environmental Standards for Sources of Human Drinking Water". I do not support this relief sought. I note that the National Environmental Standard for Sources of Human Drinking Water requires regional councils to be satisfied that permitted activities in plans will not result in community drinking water supplies being unsafe for human consumption following existing treatment. I consider that conditions 11,12, and 13 (particularly 11) of section C.4.8 will ensure that land drainage activities will not contribute towards community drinking water being unsafe for human consumption following treatment.
38. Northland Fish and Game have requested a number of changes to conditions 2, 4, 5, 6, 8, 9, 12 and 13 as well as the inclusion of a new condition 14) relating to activities not causing any significant adverse effects on aquatic life. I support the recommended

amendments to conditions 8 and 9, as I consider these conditions should apply to all fish (excluding pest fish). I do not support their other relief sought. I do not consider that the conditions should apply to 'constructed' wetlands as these are manmade wetlands and not 'natural'. I do not consider that the changes sought to conditions 12 and 13 are more appropriate than the conditions as notified. I also do not support recommended condition 14) as I consider that the relief sought is too subjective for permitted activity rules, especially when most of the rules do not require council notification before undertaking the activity.

39. Tegal Foods Ltd considers a number of conditions to be unenforceable and have requested the changes to conditions 1, 5, 11 and 12. I do not support any of this requested relief. I consider that the conditions as drafted are appropriate for permitted and controlled activity rules and will assist with determining whether or not land drainage activities are causing adverse effects (and therefore need to be tested through the consent process).

Recommendation

40. I recommend the following changes, which are outlined in full in section C.4.8 in *Proposed Regional Plan for Northland – S42A recommended changes*.
- Inclusion of a note relating to works affecting archaeological sites
 - Delete clause 3.
 - Amend clauses 8 and 9 relating to maintaining fish passage and the unintentional removal of fish from waterways
 - Inclusion of a new clause 10 relating to freshwater crayfish and freshwater mussels that are unintentionally removed from drainage channels.

Evaluation of recommended changes

41. Section 32AA, RMA requires an evaluation of proposed changes to the Plan. The changes, while potentially more than minor in effect, are considered to be within the scope of the preferred management option as set out in Section 5.4 of the Section 32 report and therefore do not require further evaluation.

Other matters

42. Refer to Appendix A for the summary of submission points, analysis and recommendations made on the land drainage and flood control provisions not addressed in the key matters sections of this report.

Appendix A - Response to other matters raised in submissions

Note – this table does not include the summary of submission points, analysis and recommendations made on the land drainage and flood control provisions addressed in the key matters sections of the report.

Provision	Summary of main submission points	Discussion	Recommendation
Definition – land drainage	There were three submissions on this definition, including one in support. Horticulture New Zealand and Royal Forest and Bird Protection Society both requested minor amendments to the definition,	I do not support either of the requested amendments because I consider that their requests are encapsulated within the definition and therefore do not improve it. The definition already refers to the achieving productive land use (meaning Forest and Bird's request is unnecessary) and I consider that Horticulture NZ's request to specifically refer to lowering and seasonal water storage is already captured through referring to <i>the lowering the water level in soils</i> .	No change
Definition – land drainage scheme	There were two submissions on this definition, including one in support. New Zealand Transport Agency requested to refer to 'road controlling authorities' within the definition.	I do not support the requested amendment as the definition applies to land drainage schemes and road controlling authorities do not own/manage land drainage schemes – they may have their own assets (drains) within the boundaries of land drainage schemes but they do not 'own or manage' actual schemes.	No change

Provision	Summary of main submission points	Discussion	Recommendation
C.4.1 and C.4.5	Whangarei District Council have requested amendments to rules to address the effects of acid sulphate soils. Far North District Council have requested that a matter of control is inserted into C.4.5 relating to effects associated with acid sulphate soils.	This will be addressed in the acid sulphate soil section 42A report.	Addressed in Acid Sulphate s42a report.
New restricted discretionary rule for drains	Horticulture NZ have requested the inclusion of a new restricted discretionary activity rule for drains that do not comply with the permitted activity rule for drains.	I do not support the requested relief by the submitter, especially in relation to the placement of new drains that do not comply with rule C.4.1. I consider that a full discretionary activity rule is the most appropriate activity status because it allows the consent officer to consider all potential adverse effects (and not be restricted to the matters of discretion – which may inadvertently not cover all potential matters). I consider this is the most appropriate because there is a likelihood that potential effects will be different depending on where the activity is occurring within the region.	No change.
C.4.1	Far North District Council have requested inclusion of dewatering in clause 2) as follows - any resulting land subsidence, dewatering or slumping does not..	I do not support the requested relief by the submitter. Rule C.5.1.5 of the Proposed Plan specifically addresses dewatering. Any land drainage activity that may result in land subsidence or slumping needs to comply with the requirements of clause 2) of rule C.4.1.	No change.
C.4.1	Several submitters have requested the rule be amended but their relief sought is unclear (Morrison G & P and Whatitiri Resource Management Unit and Environment River Patrol-Aotearoa)	The submitters provide no reasons why amendments are sought. I therefore do not recommend amending the rule.	No change.

Provision	Summary of main submission points	Discussion	Recommendation
C.4.1 C.4.6	Several submitters have requested that all drainage of farmed land and surface and subsurface water should have a limit of the containing water-soluble nutrients (Kurmann A, Ko Te Hua Marae and Parapara Marae).	The submitters provided no reasons why there should be a limit on containing water soluble nutrients. I consider that the proposed permitted activity rule (including the associated general conditions) strikes the right balance between enabling productive land use, whilst ensuring potential environmental effects are sufficiently managed. I also note that as rule C.4.6 is a discretionary activity, applications made under this rule can be declined if the adverse environmental effects are deemed to be too significant.	No change.
C.4.1	The Minister of Conservation is seeking the following condition be added to the rule. <i><u>The activity does not have adverse effects on areas of significant indigenous vegetation and significant habitats of indigenous fauna in terrestrial, freshwater and marine environments, as determined by the assessment criteria of Appendix 5, Regional Policy Statement for Northland.</u></i>	I do not support the requested amendment by the submitter. I consider that the land drainage general conditions (which the activity needs to comply with) are sufficient to ensure that the activity will not adversely affect areas that the submitter refers to. I consider the key conditions are 4, 5, 8 and 12.	No change.
C.4.1	Royal Forest and Bird Protection Society have requested a condition that drainage is not in a wetland and does not have a hydrological connection to a wetland.	Condition 4) of the Land drainage general conditions states that new land drainage does not occur within 50m of a natural wetland and condition 5) states that drainage does not cause any change in water level of a natural wetland to an extent that may adversely affect the wetlands natural ecosystem. As the definition of 'natural wetland' includes any wetland apart from constructed (man-made) wetlands, I consider that these conditions are sufficient to ensure that potential adverse effects on wetlands from land drainage on wetlands are avoided.	No change.

Provision	Summary of main submission points	Discussion	Recommendation
C.4.1	Northland Fish and Game have requested an amendment so that new drains have setback criteria included, based on soil type, type of land use and topography, using slope classification in the New Zealand Land Resource Inventory as the first basis.	I do not consider this is appropriate for a permitted activity rule for the placement of new drains. I consider that the conditions within the rule, especially the requirement to comply with the land drainage general conditions, is sufficient to ensure that any potential adverse effects will be avoided when undertaking the placement of drains.	No change.
C.4.1	Tegal Foods Ltd have requested an amendment to clause 3) by striking out the word naturally .	The submitter has not provided any justification as to why the word naturally should be deleted. Consequently, I do not support the proposed deletion.	No change.
C.4.2 C.4.4	Northland Fish and Game have requested that reference is added to a Schedule of Values that they have asked for in their submission.	Refer to response to submitter on key matter 1 (rule C.4.3) for discussion about the Schedule of Values.	No change.
C.4.4	The Minister of Conservation has requested the following matters of control are added: <ul style="list-style-type: none"> • <u>To avoid adverse effects on instream habitat</u> • <u>To avoid adverse effects on indigenous freshwater fish, in particular eels</u> • <u>To define the size and zone of reasonable mixing</u> 	The submitter has requested that additional matters of control are added to the rule to ensure that adverse effects on instream habitat and indigenous freshwater fish can be avoided. I agree with the submitter that these additional matters of control are needed to ensure appropriate conditions can be put on resource consents for re-consenting of flood control schemes.	Amend rule C.4.4 as outlined in the <i>Proposed Regional Plan for Northland – S42A recommended changes</i> .

Provision	Summary of main submission points	Discussion	Recommendation
C.4.5	Far North District Council have noted that typographical error relating to fish passage in matter of control 6. They also are requesting that the maps are amended to include all drains in the Motutangi/Kaimaumau drainage district.	The typographical error needs to be corrected The Motutangi/Kaimaumau drainage district map also needs to be amended to include all drains within the drainage district/scheme.	Amend land drainage map and rule C.4.5 as outlined in the <i>Proposed Regional Plan for Northland – S42A recommended changes</i>
C.4.5	Foy F and King K & F have requested that the rule be amended to a permitted activity or the assessment criteria made more practical.	Whilst I acknowledge that the vast majority of land drainage schemes in Northland have been operating for many years, I do not consider that a permitted activity status is appropriate for these schemes. Reasons include that many schemes are large and tend to consist of a network of culverts and drainage channels, floodgates, bunds and stopbanks. There is definite potential for adverse effects associated with these activities, including drainage of wetlands, increased risk of flooding upstream or downstream and adverse effects on aquatic ecosystems. I therefore consider that the resource consent process is appropriate and that a controlled activity strikes the right balance between ensuring environmental effects are avoided, remedied or mitigated and giving a high degree of certainty to scheme owners/managers.	No change.

Provision	Summary of main submission points	Discussion	Recommendation
C.4.5	Royal Forest and Bird Protection Society are requesting that the rule is amended to restricted-discretionary and effects on indigenous biodiversity is included as a matter of discretion.	I consider that a controlled activity status is the most appropriate activity status for this activity as outlined directly above. I note that matters of control include effects on natural wetlands and effects on indigenous freshwater fish, and in particular eels. If the activity cannot comply with the general conditions it ceases to be a controlled activity. Noting that this rule is essentially for the 'operation' of existing land drainage schemes and does not allow for the placement of new structures within schemes, I do not consider that the rule should be amended to a restricted-discretionary rule.	No change.
C.4.5	New Zealand Transport Agency are requesting that 'road controlling authorities' are added to clause 6), which outlines who is able to carry out works under this controlled activity rule.	I do not support the requested amendment by the submitter. Rule C.4.5 is clear that it only applies to work within land drainage schemes that is undertaken by either local authorities or a group of landowners who have assumed responsibility for the scheme under the Local Government Act 1974. The submitter is however able to maintain their assets (drains) under the new permitted activity rule that I am recommending.	No change.
C.4.5	Northland Fish and Game are requesting that matters of control 7) and 8) are amended by striking out the words natural and indigenous respectively.	With regards to wetlands, I note the definition of 'natural wetland' includes all wetland apart from constructed (man-made) wetlands, I do not consider there is a need to amend this condition so that it also covers effects on constructed wetlands. Regarding clause 8, I agree that as the protection of the habit of trout and salmon is a RMA section 7 matter, the condition would benefit from being able to assess effects on all freshwater fish (not just indigenous). I therefore recommend that the word indigenous is deleted however I recommend excluding pest fish.	Amend rule C.4.5 as outlined in the <i>Proposed Regional Plan for Northland – S42A recommended changes.</i>
C.4.6	Horticulture New Zealand are seeking recognition of the restricted-discretionary activity rule they are seeking for drains.	For reasons outlined above, I do not support the inclusion of a restricted discretionary activity rule for drains. I therefore do not support this inclusion of the requested text.	No change.

Provision	Summary of main submission points	Discussion	Recommendation
C.4.6	Royal Forest and Bird Protection Society NZ are requesting the inclusion of a condition that the activity will not affect a significant ecological area or a significant wetland. They are requesting a non-complying activity where this condition is not met.	I do not support the requested amendment by the submitter. I note that as this is a 'discretionary' activity rule, the consent authority (when considering an application under s104), is obliged to have regard to any relevant provision of a national policy statement or a regional policy statement or proposed plan (amongst others) and has the ability to decline the consent. I therefore consider there is more than adequate scope to consider potential adverse effects on wetlands and ecological areas during the application stage.	No change.
Policy D.4.25	Kaipara District Council note that acid sulphate soils can release acids that damage water quality, biodiversity and infrastructure.	The actual relief sought by the submitter is unclear. In any event, this policy is focused on avoiding activities that are likely to either compromise the functional integrity of flood control schemes or impede access to the schemes for maintenance purposes. I do not recommend amending the policy.	No change.
Policy D.4.25	Horticulture New Zealand are requesting that the policy is amended to address activities affecting flood control <u>and land drainage schemes</u> . They are requesting that land drainage is inserted into clauses 1) and 2) (after flood control).	The land drainage and flood control section 32 evaluation report discusses the rationale behind why the preferred option (package C) only regulates activities affecting flood control schemes (and not land drainage schemes). The main reason is that the district councils have bylaws in place that restrict obstructions (such as fences or trees) within 10 or 15 metres of drainage channels within their districts. Solely focusing on activities that may affect regional council flood control schemes in the Proposed Regional Plan therefore aligns with district council bylaws, thereby resulting in less confusion/duplication. I therefore recommend that this policy only addresses flood control schemes.	No change.

Provision	Summary of main submission points	Discussion	Recommendation
Policy D.4.26	Far North, Kaipara and Whangarei District Councils are seeking to amend the policy to require that new land drainage avoids, remedies or mitigates the effects of dewatering acid sulphate soils.	This will be addressed in the acid sulphate soil section 42A report.	Addressed in acid sulphate soils section 42A report.
Policy D.4.26	Bay of Islands Maritime Park Inc request the policy gets moved to the rule section and provisions for protecting natural character and ecological attributes are added.	The submitter has not provided any reasons why this should be moved to the rule section. I consider that that provisions within policy D.4.26 are adequately addressed within the rule framework and do not recommend any amendments.	No change.
Policy D.4.26	King K & F believe that existing drainage should be a permitted activity.	Rule C.4.1 of the Proposed Regional Plan outlines that existing drainage is a permitted activity unless it cannot comply with the standards and conditions. The purpose of the policy is therefore to assist with testing the appropriateness of drainage that requires a consent.	No change.
Policy D.4.26	Foy F request an amendment to recognise and provide for existing land drainage.	I agree with the submitter that the policy regime needs to recognise and provide for existing land drainage. I accordingly recommend amending the policy to make it clear that it addresses existing and new land drainage activities that require resource consent.	Amend Policy D.4.26 as outlined in the <i>Proposed Regional Plan for Northland – S42A recommended changes</i> .
Policy D.4.26	Landcorp Farming Limited request the policy is amended to be more simplified so that assessment of effects can be more readily undertaken by an applicant (with specific regards to wetlands).	The submitter has not provided any reasoning as to why the policy should be simplified or what specific amendments are required. In the absence of specific information, I do not support amending the policy.	No change.

Provision	Summary of main submission points	Discussion	Recommendation
Policy D.4.26	Tegel Foods Ltd request the policy is amended by deleting clause 6) relating to maintaining fish passage.	I do not support this relief sought. The section 32 report has outlined that one of the key potential issues with land drainage activities is the potential effects on aquatic ecosystems, including destruction of spawning sites and loss of upstream and downstream fish passage. Noting that the submitter has not provided any robust reasoning why it should be deleted, I do not consider it appropriate to delete this condition.	No change.
Policy D.4.26	New Zealand Transport Agency request that condition 4) is amended by adding <u>or where avoidance is not possible, remedied or mitigated.</u>	I concur with the submitter that in the context of this policy, the term avoid is considered overly restrictive and there are situations where minor subsidence may be able to be suitably remedied. I therefore recommend including the relief sought by the submitter in Policy D.4.26.	Amend Policy D.4.26 as outlined in the <i>Proposed Regional Plan for Northland – S42A recommended changes.</i>
Policy D.4.26	Northland Fish and Game and Royal Forest and Bird Protection Society NZ request that condition 5) is amended by deleting recognise the values of existing wetlands and inserting <u>protect the significant values of wetlands and of outstanding freshwater bodies</u>	I note that the two main wetland policies in the Proposed Regional Plan are D.4.27 and D.4.28. These policies address activities affecting a wetland (D.4.27) and outline requirements for when considering resource consents for activities in wetlands (D.4.28). The requirement to recognise the values of existing wetlands in Policy D.4.26 is therefore aimed towards ‘assisting’ these policies and if a land drainage activity is either within a wetland or will affect a wetland, these two policies ‘come into play’. Consequently, I do not recommend amending the policy.	No change.

Provision	Summary of main submission points	Discussion	Recommendation
Policy D.4.26	<p>Royal Forest and Bird Protection Society NZ request that clause 6) is amended by deleting and where possible encourage development of new fish passage opportunities and inserting <u>and if drainage lends to deteriorated or non-functional fish passages, the development of a new functional fish passage to fulfil the loss of passage is required.</u></p>	<p>The section 32 evaluation report outlines that potential adverse effects associated with land drainage includes effects on aquatic ecosystems, including destruction of inanga spawning sites and flood gate fish barriers. Land drainage systems also often constrain the migration of eels from upper catchment areas to the coast and vice versa. I therefore agree with the submitter that this policy should be amended to require the development of new fish passage if land drainage leads to deteriorated or non-functional fish passage.</p>	<p>Amend Policy D.4.26 as outlined in the <i>Proposed Regional Plan for Northland – S42A recommended changes.</i></p>