

# **Proposed Flood Protection Management Bylaw 2012**

**Council Decision**



This report presents the Council Decision on submissions to the Proposed Flood Protection Management Bylaw 2012.

Otago Regional Council resolved to adopt the recommendations of the Hearing Committee on the Proposed Flood Protection Management Bylaw 2012 at its meeting on 8 August 2012, as follows:

That Council:

1. *Adopt the recommendations of the Hearing Committee on the Proposed Flood Protection Management Bylaw 2012 as its decision;*
2. *Replace the Flood Protection Management Bylaw 2008 by making the Proposed Flood Protection Management Bylaw 2012 come into operation on 1 September 2012;*
3. *Give public notice of the making of the Flood Protection Management Bylaw 2012 on Saturday 18 August 2012; and*
4. *Notify submitters of its decisions.*

## **Abbreviations**

2008 Bylaw	Flood Protection Management Bylaw 2008
Council	Otago Regional Council
LGA 2002	Local Government Act 2002
Proposed Bylaw	Proposed Flood Protection Management Bylaw 2012

*This report shows changes to the text of the Proposed Bylaw, with double ~~strikethrough~~ and double underline.*

*Appendix 1 contains a copy of the Proposed Bylaw (excluding maps), incorporating decisions.*

*Appendix 2 contains a copy of decisions regarding maps.*

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Appendix 1:

Proposed Flood Protection Management Bylaw 2012 incorporating the Decision of Council on submitter decisions requested

Appendix 2:

Proposed Flood Protection Management Bylaw 2012 (Second Schedule Lower Taieri River Floodway Map) incorporating the Decision of Council on submitter decisions requested

## Introduction

The purpose of the Proposed Flood Protection Management Bylaw 2012 is to ensure the effective operation and integrity of Council's flood protection works / schemes. The Proposed Bylaw strengthens the 2008 Bylaw by:

- Simplifying wording to ensure it is clear, concise and consistent
- Modifying maps of existing flood protection works
- Adding maps of flood protection works

The Proposed Flood Protection Management Bylaw 2012 was publicly notified in the Otago Daily Times on Saturday 5 May 2012 and submissions closed on Tuesday 5 June 2012. A total of 10 submissions were received (1 of which was received after the formal submission period and accepted by the Hearing Committee).

The notice of hearing and Summary of Decisions Requested were released on Monday 25 June 2012.

Submissions on the Proposed Bylaw were heard on Tuesday 3 July 2012. A total of 8 submitters presented evidence to the Hearing Committee.

The Hearing Committee considered all the submissions and evidence presented to it, and recommended amendment to the Proposed Bylaw as set out in the following table. The recommendations were accepted by Council at its meeting on 8 August 2012.





# Bylaw Purpose

## Section 1.0 Purpose

Name	Number	Position	Decision Requested	Hearing Committee Recommendation
GL & JL Adam	5	Amend	Reinstate the second paragraph of clause 1.0 to clarify it is not intended to control or interfere with normal farming practices.	<p>We considered the submissions and recommend no change be made to the purpose.</p> <p>Reasons for recommendation:</p> <ul style="list-style-type: none"> <li>▪ A number of farming activities can have an effect on the operation and integrity of flood protection works.</li> <li>▪ The Proposed Bylaw is effects based and should not therefore refer to specific activities in the purpose.</li> <li>▪ Activities require assessment on a case-by-case basis in order to assess effects.</li> <li>▪ The rules need to be read in conjunction with the purpose.</li> <li>▪ Section 149 (1) (c) of the LGA 2002 limits Regional Council bylaw making powers to "flood protection and flood control works undertaken by, or on behalf of, the regional council".</li> </ul>
Clutha District Council	6	Amend	Section 1.0 Purpose should say "... Owned by or under the control of the Otago Regional Council or Territorial Local Authorities within Otago."	
Federated Farmers	9	Amend	<p>Adopt the wording [of first paragraph] as proposed.</p> <p>Retain the wording of the existing [2008] Bylaw provision. Or Specifically exclude normal farming activities in the wording of the bylaw that don't negatively impact flood protection management from the bylaw's purpose.</p>	

# Definitions

## Definitions general

Name	Number	Position	Decision Requested	Hearing Committee Recommendation
Lower Waitaki Irrigation Company	3	Amend	Define the expression 'by-wash' so as to limit this to excess water spilling from release mechanisms installed in the Lower Waitaki irrigation race network.	We considered the submissions and recommend no new definitions be added.
GL & JL Adam	5	Amend	A definition of 'earthworks' could be inserted at clause 2.0 that includes both the removal and depositing of certain volumes of material.	<p>However in relation to the requested 'by-wash' definition, please refer to page 13 of this report as this matter has been addressed by altering rule 3.3 h.</p> <p>Reasons for recommendation:</p> <ul style="list-style-type: none"> <li>▪ If a term is not defined then the common meaning applies.</li> <li>▪ Earthworks is not a term used in the Proposed Bylaw. The rules refer to excavation and deposition, which are defined.</li> </ul>

## Definition of defence against water

Name	Number	Position	Decision Requested	Hearing Committee Recommendation
New Zealand Railways Corporation (KiwiRail)	8	Amend	Amend the definition of 'Defence against water' with the following (or similar) wording: "c. <u>Excludes any railway embankment.</u> "	<p>We considered the submission and recommend no change be made to the definition of defence against water.</p> <p>Reasons for recommendation:</p> <ul style="list-style-type: none"> <li>▪ The definition refers specifically to those defences against water mapped in the Second Schedule.</li> <li>▪ Railway embankments are not mapped as defences against water in the Second Schedule, therefore the Proposed Bylaw rules do not apply.</li> </ul>

## Definition of structure

Name	Number	Position	Decision Requested	Hearing Committee Recommendation
NZ Transport Agency	7	Amend	Clarify the definition of structure.	
New Zealand Railways Corporation (KiwiRail)	8	Amend	Amend the definition of 'Structure' with the following (or similar) wording: "Structure includes ... in accordance with this Bylaw, <u>or any part of the railway network.</u> "	<p>We considered the submissions and recommend no change be made to the definition of structure.</p> <p>Reasons for recommendation:</p> <ul style="list-style-type: none"> <li>▪ Roads and railway embankments fall within the definition of structure (consistent with the RMA).</li> <li>▪ New roads and railway embankments, or alterations to existing roads and railway embankments, may adversely affect the operation or integrity of flood protection works and therefore the works need to be assessed on a case by case basis.</li> </ul>

## Activities Requiring Bylaw Authority – 3.1 Drains and Overland Flow Paths

### Rules 3.1 general

Name	Number	Position	Decision Requested	Hearing Committee Recommendation
Federated Farmers	9	Amend	Ensure the existing wording of the Council's Bylaw is retained in regard to exclusion of normal farming activities having no impact on flood protection management.	<p>We considered the submissions and recommend no change be made to the rules in section 3.1.</p> <p>Reasons for recommendation:</p> <ul style="list-style-type: none"> <li>▪ Overland flow paths to which the Proposed Bylaw applies are mapped in the First Schedule.</li> <li>▪ A number of farming activities can have an effect on the operation and integrity of flood protection works.</li> <li>▪ Activities require assessment on a case-by-case basis in order to assess effects.</li> <li>▪ The Proposed Bylaw is effects based and should not therefore refer to specific activities in the purpose.</li> <li>▪ The rules need to be read in conjunction with the purpose.</li> </ul>
<b>Rule 3.1 g (operation of vehicles, machinery, equipment)</b>				
Federated Farmers	9	Support	Adopt the proposed amendment provided that Council ensures the existing wording of the Council's Bylaw is retained in regard to exclusion of normal farming activities having no impact on flood protection management.	
<b>Rule 3.1 h (livestock)</b>				
Federated Farmers	9	Support	Adopt the proposed amendment provided that Council ensures the existing wording of the Council's Bylaw is retained in regard to exclusion of normal farming activities having no impact on flood protection management.	

## Activities Requiring Bylaw Authority – 3.2 Defences Against Water and Excavation-Sensitive Areas

### Rules 3.2 general

Name	Number	Position	Decision Requested	Hearing Committee Recommendation
Federated Farmers	9	Support	Adopt the word change from 'any watercourse or drain' to 'any river'.	<p>We considered the submission and recommend no change be made to rules 3.2 in general, except as detailed further in this report.</p> <p>Reasons for recommendation:</p> <ul style="list-style-type: none"> <li>▪ A number of farming activities can have an effect on the operation and integrity of flood protection works.</li> <li>▪ Activities require assessment on a case-by-case basis in order to assess effects.</li> <li>▪ The rules need to be read in conjunction with the purpose.</li> </ul>

### Rule 3.2 f (deposition)

Name	Number	Position	Decision Requested	Hearing Committee Recommendation
Federated Farmers	9	Support	Adopt sub-clause (f) as proposed.	<p>We considered the submissions and recommend the following change be made to rule 3.2 f:</p> <div style="border: 1px solid black; padding: 5px;"> <p>Dump or deposit any thing</p> <ul style="list-style-type: none"> <li>i. on any <i>defence against water</i>, or</li> <li>ii. within seven metres of the landward side of any <i>defence against water</i>, or</li> <li>iii. between the bank of any <u>river watercourse or drain</u> and any associated defence against water;</li> </ul> <p><del>excluding materials for the purpose of access maintenance of existing access;</del></p> </div> <p>Reason for recommendation:</p> <ul style="list-style-type: none"> <li>▪ The proposed amendment clarifies the exemption.</li> </ul>

## Activities Requiring Bylaw Authority – 3.3 Floodways

### Rules 3.3 general

Name	Number	Position	Decision Requested	Hearing Committee Recommendation
GL & JL Adam	5	Amend	<p>Specificity is required to provide certainty for landowners.</p> <p>Objective thresholds should be introduced, such as requiring an authority when earthworks of a certain volume are undertaken within the floodway in a fashion that alters the contours of the land to the extent that the flow of water is likely to be impeded.</p>	<p>We considered the submissions and recommend that no changes be made in regard to these specific requests.</p> <p>Reasons for recommendation:</p> <ul style="list-style-type: none"> <li>▪ The activities requested for exemption can have an effect on the operation and integrity of flood protection works.</li> <li>▪ Activities require assessment on a case-by-case basis in order to assess effects.</li> <li>▪ The Proposed Bylaw is effects based and should not therefore refer to specific activities in the purpose.</li> <li>▪ The rules need to be read in conjunction with the purpose.</li> </ul>
Murray Magon	10	Oppose	To continue with the current usage of my section for my company use.	

### Rule 3.3 c (tree planting)

Name	Number	Position	Decision Requested	Hearing Committee Recommendation
GL & JL Adam	5	Amend	<p>Manage solid lines of trees across the [Lower Taieri River] floodway and provide for distances between plantings (of, say more than 12 trees) to allow water to flow.</p> <p>Existing trees should be able to be replaced without the need for an authority.</p>	<p>We considered the submission and recommend that no change be made to rule 3.3c.</p> <p>Reasons for recommendation:</p> <ul style="list-style-type: none"> <li>▪ It is not only solid lines of trees that may have an adverse effect on the operation and integrity of flood protection works (e.g. cumulative effects).</li> <li>▪ Existing trees may have adverse effects on scheme operation and integrity and need to be controlled.</li> </ul>

### Rule 3.3 e (deposition)

Name	Number	Position	Decision Requested	Hearing Committee Recommendation
Federated Farmers	9	Support	Adopt the proposed policy change.	<p>We considered the submission and recommend the following change be made to rule 3.3e:</p> <div style="border: 1px solid black; padding: 5px; margin: 10px 0;"> <p>Dump or deposit any thing in any <i>floodway</i>, <del>excluding materials for the purpose of access</del> maintenance of existing access, or as a result of maintenance of <i>ditches</i> undertaken in accordance with rule 3.3 (g).</p> </div> <p>Reasons for recommendation:</p> <ul style="list-style-type: none"> <li>▪ The proposed amendment clarifies the exemption.</li> </ul>

### Rule 3.3 g (excavation)

Name	Number	Position	Decision Requested	Hearing Committee Recommendation
Federated Farmers	9	Support	Adopt the proposed policy change.	<p>We considered the submission and recommend that no change be made to rule 3.3g.</p> <p>Reasons for recommendation:</p> <ul style="list-style-type: none"> <li>▪ No change was requested.</li> </ul>

### Rule 3.3 h (discharge of irrigation by-wash)

Name	Number	Position	Decision Requested	Hearing Committee Recommendation
Lower Waitaki Irrigation Company	3	Amend	<p>That existing drains and irrigation runoff from adjacent farmers continue to be allowed to flow into the drain part of the Henderson Waikoura floodway.</p> <p>Allow the continued practice of utilising a small drain with the profile of the large floodway.</p> <p>Continuation of the status quo, this will place no additional risk around flood protection not additional cost to the ORC.</p>	<p>We considered the submission and recommend the following changes be made to rule 3.3 h and that the definition of 'discharge' be deleted:</p> <div style="border: 1px solid black; padding: 5px;"> <p><del>Discharge irrigation by wash to the Hilderthorpe or Hendersons and Waikoura Creeks floodways;</del></p> <p><del>Connect any pipe, channel or other conduit to the Hilderthorpe or Hendersons and Waikoura Creeks floodways;</del></p> </div> <p><del>"Discharge" includes omit, deposit, and allow to escape.</del></p> <p>Reasons for recommendation:</p> <ul style="list-style-type: none"> <li>▪ Rule 3.3 h was only intended to address new connections.</li> <li>▪ Deletion of the 'discharge' definition is a consequential amendment as the term is not used elsewhere in the Proposed Bylaw.</li> <li>▪ The amendment means the Bylaw will control any new connections to the floodways, not only irrigation by-wash.</li> </ul>



## Activities Required to be Undertaken

### 4.2 Fences in floodways

Name	Number	Position	Decision Requested	Hearing Committee Recommendation
GL & JL Adam	5	Amend	<p>This clause is pointless and should be deleted.</p> <p>Consider controlling fencing in the floodways by similar mechanism to a performance standard in a District Plan. Fences could be required to be fixed on the downstream side of the floodway.</p>	<p>We considered the submissions and recommend that no changes be made.</p> <p>Reasons for recommendation:</p> <ul style="list-style-type: none"> <li>▪ An effects based rule allows flexibility.</li> <li>▪ Controlling fences in a similar manner to the district plan may duplicate controls, and would not address the issue.</li> <li>▪ Altering the provision so that fences had to 'blow out' would not address the issue of debris accumulation, particularly with existing fences as the Bylaw is not retrospective.</li> </ul>
Federated Farmers	9	Support	<p>Adopt the proposed wording to Clause 4.2.</p>	

## First Schedule

### Tokomairiro scheduled drains

Name	Number	Position	Decision Requested	Hearing Committee Recommendation
Clutha District Council	6	Amend	Add the diversion swale built at Milton by Clutha District Council (see map attached to submission).	<p>We considered the submission and recommend that no change be made.</p> <p>Reasons for recommendation:</p> <ul style="list-style-type: none"> <li>▪ Section 149 (1) (c) of the LGA 2002 limits Regional Council bylaw making powers to "flood protection and flood control works undertaken by, or on behalf of, the regional council".</li> </ul>

## Second Schedule

### Defences against water

Name	Number	Position	Decision Requested	Hearing Committee Recommendation
Clutha District Council	6	Amend	Add the floodbank built at Milton by Clutha District Council (see map attached to submission).	<p>We considered the submissions and recommend that no changes be made.</p> <p>Reasons for recommendation:</p> <ul style="list-style-type: none"> <li>▪ Section 149 (1) (c) of the LGA 2002 limits Regional Council bylaw making powers to "flood protection and flood control works undertaken by, or on behalf of, the regional council".</li> <li>▪ Existing controls are sufficient to provide for the effective operation and integrity of the Shotover flood protection works. Inclusion of the works would unnecessarily duplicate controls.</li> </ul>
NZ Transport Agency	7	Amend	Include the Lower Shotover flood protection works within the proposed bylaw.	

### Lower Taieri excavation-sensitive areas

Name	Number	Position	Decision Requested	Hearing Committee Recommendation
IH & DJ Bryant	2	Amend	The excavation sensitive boundaries should be greatly reduced especially north of Otokia Road.	<p>We considered the submissions and recommend that no changes be made.</p> <p>Reasons for recommendation:</p> <ul style="list-style-type: none"> <li>▪ The State Highway and Rail Bridge crossings have a throttling effect on flood flow conveyance, resulting in elevated flood levels even in relatively modest flood events. That combined with the past history of piping at this location and the clear consequences that would result from relatively rapid piping related failure of the floodbank network at this location have resulted in the Excavation Sensitive Area as defined by Tonkin and Taylor being largely retained.</li> <li>▪ The high consequence of a defence against water failure requires a conservative approach</li> <li>▪ The Golder report was intended to assess in more detail the likelihood of potential piping related failure of the floodbank network at this location; it was not commissioned with the express purpose of refining the Excavation Sensitive Area.</li> <li>▪ Although the resolution of sub-surface investigation by Golder is finer than that used for the Tonkin and Taylor analysis, it still relies on the inference that ground conditions will be uniform between two test locations and on that basis alone a conservative analysis is the more prudent basis for determining the extent of the Excavation Sensitive Area.</li> </ul>
Federated Farmers	9	Amend	ORC continue to contact individual landowners in areas deemed excavation sensitive, to ground truth the factors to land being categorised and to communicate and explain the obligations and constraints this might place on the landowner.	

## Third Schedule

### Lower Taieri River floodway map

Name	Number	Position	Decision Requested	Hearing Committee Recommendation
GL & JL Adam	5	Amend	[Alter map to remove Manager's residence and dairy buildings which are above the 1980 flood high water mark].	<p>We considered the submissions and recommend a change to the Third Schedule Lower Taieri River Floodway map be made as follows.</p> <div style="border: 1px solid black; padding: 5px; margin: 5px 0;"> <p>That the Third Schedule Lower Taieri River Floodway Map be split into 4 separate maps (one index map and three detailed maps), as shown in Appendix 2.</p> </div> <p>Reasons for recommendation:</p> <ul style="list-style-type: none"> <li>▪ The map scale was altered to ensure it was easy to distinguish whether or not the Proposed Bylaw applies.</li> <li>▪ The GL &amp; JL Adam manager's residence and dairy buildings were not included in the Lower Taieri River Floodway.</li> <li>▪ The activities undertaken on the property of Mr Magon have the potential to effect the operation and integrity of flood protection works and need to be managed through the bylaw approval process.</li> </ul>
Murray Magon	10	Oppose	To continue with the current usage of my section for my company use.	

## Other Matters

### General opposition

Name	Number	Position	Decision Requested	Hearing Committee Recommendation
Robert Reid	1	Oppose	Reject this change.	<p>We considered the submissions and recommend that no changes be made.</p> <p>Reasons for recommendation:</p> <ul style="list-style-type: none"> <li>▪ Roads fall within the definition of structure (consistent with the RMA).</li> <li>▪ New roads, or alterations to existing roads may adversely affect the operation or integrity of flood protection works and therefore the works need to be assessed on a case-by-case basis.</li> <li>▪ Gaining bylaw approval is not as onerous as gaining resource consent. Bylaw approvals address issues in relation to the effective operation and integrity of flood protection works, and these issues cannot be addressed by the Regional Plan: Water for Otago.</li> </ul>
NZ Transport Agency	7	Oppose	<p>Prefer to see State Highways exempted from the provisions of the Bylaw.</p> <p>Avoid duplications of approval requirements [Bylaw approval and Water Plan consent]</p>	

### Emergency Works

Name	Number	Position	Decision Requested	Hearing Committee Recommendation
NZ Transport Agency	7	Amend	Provide for a limited range of emergency works that are undertaken by the NZTA or its consultants or contractors.	<p>We considered the submissions and recommend that no changes be made.</p> <p>Reasons for recommendation:</p> <ul style="list-style-type: none"> <li>▪ In an emergency situation it is appropriate that the ORC be informed of any proposed works by phone.</li> <li>▪ The Proposed Bylaw is not an appropriate location for a communications protocol.</li> </ul>
New Zealand Railways Corporation (KiwiRail)	8	Amend	Insert provision for emergency works under these regulations for land transport network operators such as KiwiRail.	

### Beyond the scope

Name	Number	Position	Decision Requested	Hearing Committee Recommendation
PR Lyders Trust	4	Not applicable	<p>Include a statement that ORC staff will at all times exercise a duty of care towards persons or organizations who pay rates for an ORC administered flood protection scheme.</p> <p>Acknowledge that owners of land in ponding areas such as East Taieri, Meggatburn and Berwick Flats suffer increased costs due to restrictions on their ability to increase their flood protection and increased flood heights due to the greater flood flows in the Lower Taieri River due to the protective banks of the West Taieri Scheme.</p> <p>Note the ponding area landowners deliver a free benefit to West Taieri Scheme ratepayers.</p> <p>State that flood protection ratepayers in discrete areas (such as Berwick Flats, Meggatburn Flats, West Taieri Scheme and East Taieri Area) have the right to access the amount of flood protection rates paid by their area and the way(s) these rates have been expended.</p>	<p>We considered the submission and recommend that no changes be made.</p> <p>Reasons for recommendation:</p> <ul style="list-style-type: none"> <li>▪ The matters raised cannot be addressed by the content of the Proposed Bylaw.</li> </ul>

**Appendix 1:  
Proposed Flood Protection Management Bylaw 2012  
incorporating the Decision of Council on submitter  
decisions requested**







Proposed

# Flood Protection Management Bylaw 2012

Incorporating Council Decision



*This report shows amendments to the notified version of the Proposed Bylaw, with ~~strikethrough~~ and underline.*



## **Chairperson's Foreword**

*This page has deliberately been left blank. The Chairperson's Foreword will be inserted at a later date.*



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### **First Schedule**

Maps of scheduled drains and overland flow paths.

### **Second Schedule**

Maps of defences against water and excavation-sensitive areas.

### **Third Schedule**

Descriptions and maps of floodways.

### **Fourth Schedule**

Maps of groynes, cross-banks, anchored tree protection and plantings.

### **Appendix One**

Bylaw Approval Application Form.





# FLOOD PROTECTION MANAGEMENT BYLAW 2012

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

## Title

This Bylaw shall be known as the Flood Protection Management Bylaw 2012.

## Commencement

This Bylaw shall come into force on the <date>.

## 1.0 PURPOSE

The purpose of this Bylaw is to manage, regulate and protect the effective operation and integrity of flood protection works owned by or under the control of the Otago Regional Council. Flood protection works can include drains, overland flow paths, defences against water, floodways, groynes, cross-banks, anchored tree protection and plantings.

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

## 2.0 DEFINITIONS

Note: where a word is defined it is shown in the Bylaw text in *italics*.

***Anchored Tree Protection*** means any anchored tree protection shown in the Fourth Schedule.

***Authority*** means written approval issued by the Council under this Bylaw.

***Bed*** means the space of land which the waters of the river cover at its fullest flow without overtopping its banks.

***Council*** means the Otago Regional Council and includes any person duly authorised by the Council to exercise any of the powers conferred upon the Council by this Bylaw.

***Cross-bank*** means any cross-bank shown in the Fourth Schedule.

***Defence against water*** means any defence against water shown in the Second Schedule and includes the *bed* of the Water of Leith and Lindsay Creek as marked in red on the Leith Lindsay map in the Second Schedule.

***Discharge*** ~~includes emit, deposit, and allow to escape.~~

***Ditches*** means any drainage network, other than scheduled *drains*.

**Drain** means any drain shown in the First Schedule.

**Excavation** means the removal of material, which results in a hole or cavity.

**Excavation-sensitive areas** means any excavation-sensitive area shown in the Second Schedule.

**Flood protection works** include drains, overland flow paths, defences against water, floodways, groynes, cross-banks, anchored tree protection and plantings.

**Floodway** means any floodway shown in the Third Schedule.

**Groynes** means any groyne shown in the Fourth Schedule.

**Occupier** in relation to any property, means the inhabitant occupier of that property.

**Overland flow path** means any overland flow path shown in the First Schedule.

**Owner** in relation to any property, means the person entitled to receive the rack rent thereof, or who would be so entitled if the property were let to a tenant at a rack rent.

**Plantings** means any planting shown in the Fourth Schedule.

**Structure** includes any building, crossing, equipment, device or other facility made by people and which is fixed to land; and includes any raft (and also includes, but is not limited to, any fence, gate, line or cable and any culvert, pipe, or other kind of conduit) but does not include any lines or cables to be carried upon existing bridges or utility support structures authorised in accordance with this Bylaw.

### 3.0 ACTIVITIES REQUIRING BYLAW AUTHORITY

Resource consent or authorisation may also be required from the Otago Regional Council, relevant territorial authority or the Department of Conservation.

#### 3.1 Drains and Overland Flow Paths

No person shall, without the prior *authority* of the *Council* –

- a. Alter any *drain* or *overland flow path*;
- b. Remove or interfere with any machinery or equipment relating to any *drain*;
- c. Plant any tree
  - i. in any *drain* or *overland flow path*, or
  - ii. on, or within, seven metres of the top of the bank of any *drain*;
- d. Construct or put any *structure*
  - i. in, over, through or under any *drain* or *overland flow path*, or
  - ii. on, or within, seven metres of the top of the bank of any *drain*;
- e. Dump or deposit any thing in any *drain* or *overland flow path*;
- f. Obstruct any *drain* or *overland flow path*;
- g. Drive, take or operate any vehicle, machinery or equipment, in or through any *drain*;
- h. Allow livestock in or through any *drain*;
- i. Connect any pipe, channel or other conduit to any *drain* or *overland flow path*.

### 3.2 Defences Against Water and Excavation-Sensitive Areas

No person shall, without the prior *authority* of the *Council* –

- a. Alter any *defence against water* except as provided for by rule 3.2 (f);
- b. Remove or interfere with any machinery or equipment relating to any *defence against water*;
- c. Plant any tree
  - i. on any *defence against water*, or
  - ii. within seven metres of the landward side of any *defence against water*, or
  - iii. between the bank of any river and associated *defence against water*;
- d. Construct or put any *structure*
  - i. in, on, over, through or under any *defence against water*, or
  - ii. within seven metres of the landward side of any *defence against water*, or
  - iii. between the bank of any river and associated *defence against water*;
- e. Remove or alter any *structure*
  - i. in, on, over, through or under any *defence against water*, or
  - ii. within seven metres of any *defence against water*, or
  - iii. within any *excavation-sensitive area*;
- f. Dump or deposit any thing
  - i. on any *defence against water*, or
  - ii. within seven metres of the landward side of any *defence against water*, or
  - iii. between the bank of any river and associated *defence against water*;  
excluding materials for the purpose of access maintenance of existing access;
- g. Allow livestock, vehicles, machinery or equipment to adversely affect the integrity of any *defence against water*;
- h. Carry out any *excavation*
  - i. in, on, through or under any *defence against water*, or
  - ii. within 20 metres of the landward side of any *defence against water* which lowers the existing ground surface by more than 300 millimetres in depth, or
  - iii. between the bank of any river and associated *defence against water*, or
  - iv. within any *excavation-sensitive area*.

### 3.3 Floodways

No person shall, without the prior *authority* of the *Council* –

- a. Alter any *floodway* except as provided for by rules 3.3 (e) and (g);
- b. Remove or interfere with any machinery or equipment relating to any *floodway*;
- c. Plant any tree in any *floodway*;
- d. Construct or put any *structure* in, on, over, through or under any *floodway*;
- e. Dump or deposit any thing in any *floodway*, excluding materials for ~~the purpose of access~~ maintenance of existing access, or as a result of maintenance of *ditches* undertaken in accordance with rule 3.3 (g);
- f. Obstruct any *floodway*;
- g. Carry out any *excavation* in any *floodway*, excluding maintenance of *ditches*;
- h. ~~Discharge irrigation by wash to the Hilderthorpe or Hendersons and Waikoura Creeks floodways.~~

Connect any pipe, channel or other conduit to the Hilderthorpe or Hendersons and Waikoura Creeks floodways.

### 3.4 Lower Waitaki Groynes, Cross-banks and Anchored Tree Protection

No person shall, without the prior *authority* of the *Council*–

- a. Alter any *groyne, cross-bank or anchored tree protection*;
- b. Remove or interfere with any machinery or equipment relating to any *groyne, cross-bank or anchored tree protection*;
- c. Plant any tree on, or within seven metres, of any *groyne, cross-bank or anchored tree protection*;
- d. Construct or put any *structure*
  - i. in, on, over, through or under any *groyne, cross-bank or anchored tree protection*, or
  - ii. within seven metres of any *groyne, cross-bank or anchored tree protection*;
- e. Remove or alter any *structure*
  - i. in, on, over, through or under any *groyne, cross-bank or anchored tree protection*, or
  - ii. within seven metres of any *groyne, cross-bank or anchored tree protection*;
- f. Dump or deposit any thing on, or within fifty metres of, any *groyne, cross-bank or anchored tree protection*; excluding materials for the purpose of access maintenance;
- g. Carry out any *excavation*
  - i. in, on, through or under any *groyne, cross-bank or anchored tree protection*, or
  - ii. within fifty metres of any *groyne, cross-bank or anchored tree protection* which lowers the existing ground surface by more than 300 millimetres in depth, or
  - iii. between the bank of any river and associated *groyne, cross-bank or anchored tree protection*;
- h. Allow livestock, vehicles, machinery or equipment to adversely affect the integrity of any *groyne, cross-bank or anchored tree protection*.

### **3.5 Lower Waitaki Plantings**

No person shall, without the prior *authority* of the *Council* –

- a. Remove, alter or interfere with any *plantings*; or
- b. Add to any *plantings*.

## **4.0 ACTIVITIES REQUIRED TO BE UNDERTAKEN**

### **4.1 Structures**

The *owner* of every *structure* shall keep it in good repair.

### **4.2 Floodways**

- a. Within any *floodway* every fence and gate shall be maintained free of debris.
- b. Within the Hilderthorpe *Floodway*, every fence shall include a floodgate which enables the free flow of flood water.

### **4.3 Fencing of Drains**

The *Council's* Chief Executive may, by written notice, require every *owner*, and every *occupier* of land adjoining any *drain* to, in the time and manner stated in the notice, erect fencing to prevent livestock entering the *drain* at the cost of the *owner*, if in the opinion of the Chief Executive, fencing is necessary to ensure the effective operation and integrity of the *drain*.

### **4.4 Access**

The *Council's* Chief Executive may, by way of notice displayed on site, prohibit or restrict access to any *flood protection works*, if, in the opinion of the Chief Executive the restriction or prohibition is necessary to ensure the effective operation and integrity of the *flood protection works*.



## **5.0 APPLYING FOR AN AUTHORITY**

### **5.1 Authority**

- a. An application to the *Council* for *authority* under this Bylaw shall be made in accordance with the Bylaw Approval Application Form (Appendix One) and be accompanied by the prescribed fee;
- b. Any *authority* under this Bylaw may be granted on such conditions as the *Council* considers appropriate. When considering applications for *authority*, the *Council* shall have regard, but not be limited to, the following assessment criteria, in order to ensure the effective operation and integrity of the *flood protection works*:
  - Capacity
  - Scour
  - Access
  - Maintenance
  - Water quality
- c. Every person to whom an *authority* is granted shall produce that *authority* for inspection on request by the *Council*.

### **5.2 Fees**

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

## **6.0 COMPLIANCE AND ENFORCEMENT**

### **6.1 Revocation of Authority**

- a. The *Council* may, in accordance with this clause, revoke any *authority* granted under this Bylaw, if the holder of the *authority* contravenes or fails to comply with any condition of the *authority*.
- b. Before revoking any *authority*, the *Council* shall give -
  - i. written notice to the holder of the *authority* that the *Council* may revoke the *authority*; and
  - ii. the holder an opportunity of making, within 14 days, written submissions relating to the possible revocation of the *authority*.

### **6.2 Offence**

- a. Every person commits an offence against this Bylaw who -
  - i. Commits a breach of any clause of Section 3 or 4 of this Bylaw;
  - ii. Causes or permits to be done anything in contravention of any clause of Section 3 or 4 of this Bylaw;
  - iii. Omits to do anything required by this Bylaw or the conditions of the relevant *authority*;
  - iv. Fails to comply with any written notice served under this Bylaw.
- b. Every person who commits an offence against this Bylaw is liable to the penalties prescribed by section 242 of the Local Government Act 2002.

### **6.3 Notice to Remedy**

The *Council* may, by written notice, require any mitigation or remediation considered necessary by *Council*, in relation to the contravention of any clause of Section 3 or 4, or the conditions of the relevant *authority*, in the time, and in the manner stated in the notice, at the cost of the *owner*.

### **6.4 Removal of Works**

The *Council*, or any agent of the *Council*, may remove or alter any work or any thing, constructed or being in contravention of any provision of this Bylaw, or any conditions of an *authority*, and may recover the costs incurred by the *Council* in connection with the removal or alteration.

The undertaking of this action shall not relieve any person from liability to any penalty incurred by reason of the breach.

## **First Schedule - Drains and Overland Flow Paths**

Maps of scheduled *drains* and *overland flow paths* owned by or under the control of the *Council*, to which this Bylaw applies.

Lower Clutha Scheduled Drains

Tokomairiro Scheduled Drains

East Taieri Scheduled Drains and Overland Flow Paths

West Taieri Scheduled Drains and Overland Flow Paths



## **Second Schedule – Defences Against Water and Excavation-Sensitive Areas**

Maps of *defences against water* and *excavation-sensitive areas* owned by or under the control of the *Council*, to which this Bylaw applies.

Lower Clutha Defences Against Water  
Lower Taieri Defences Against Water and Excavation-Sensitive Areas  
Leith Lindsay Defences Against Water  
Alexandra Defences Against Water



## Third Schedule - Floodways

Descriptions and maps of *floodways* owned by or under the control of the *Council*, to which this Bylaw applies.

Lower Clutha Floodway  
Lower Taieri (Upper Pond) Floodway  
East Taieri Silver Stream Floodway  
Lower Taieri River Floodway  
Miller Road and Otokia Road Contour Channel Floodways  
Hendersons and Waikoura Creeks Floodway  
Hilderthorpe Floodway

### **Lower Clutha Floodway**

This channel provides flood relief to Balclutha, shortening the flow path of the Koau branch between the Bifurcation (point at which the Clutha splits into the Koau and Matau branches) and Finegand. It runs in a SSE direction, is approximately 500 m wide and 1.9 km long. The floodway is grass-lined (pastoral farmland when not in operation) with floodbanks on either side and a lower height sill at the bottom end (to prevent the bottom end being drowned in river flows less than the operating threshold).

### **Lower Taieri (Upper Pond) Floodway**

The Lower Taieri Flood Protection Scheme incorporates two flood storage ponds designed to maximise the peak flow the Scheme can accommodate. The northern most pond (upper pond) has a defined spill point from the Taieri River. A demountable barrier structure (with collapsible props) gives some control to the discharge but most of the spillway is 'uncontrolled' (flatter riverward batter and a steeper landward batter lined with rock, with concrete grouting). Although not physically delineated, the area of pastoral farmland between the spillway and Riverside Road conveys flow spilled from the Taieri River to the upper ponding area.

### **East Taieri Silver Stream Floodway**

Although not physically delineated, this floodway encompasses an area adjacent to the Silver Stream (Gordon Road) Spillway. This floodway conveys flow spilled from the Silver Stream which eventually discharges to the Upper Ponding Area via gated culverts through the cutoff bank.

The Silver Stream (Gordon Road) Spillway is a lowered section (approximately 1km long) of the true right Silver Stream floodbank between Gordon Road and Riccarton Road. This section is a design feature of the Lower Taieri Flood Protection Scheme. It is designed to mitigate the flood risk for Mosgiel (protected by the true left floodbank) by allowing spilling over the true right floodbank. Spill starts when the flow in the Silver Stream reaches approximately 170 m<sup>3</sup>/s.

### **Lower Taieri River Floodway**

The Taieri River Floodway defines the area of river berm between Allanton and the Waipori River confluence that assists with the conveyance of flood flows. The true left extent of the floodway between Allanton and the Waipori River confluence is defined by higher ground (lower than the opposite bank floodbank crest level). The true right side of the river from Otokia to the Waipori River confluence is defined by floodbanks or elevated sections of State Highway 1 (locally known as the "Flood Free Highway").

*Proposed Flood Protection Management Bylaw 2012  
Incorporating Council Decision 8 August 2012*

### Miller Road and Otokia Road Contour Channel Floodways

Two uncontrolled spillways are located on the Contour Channel left bank, one just upstream of Miller Road and one immediately downstream of Otokia Road. These spillways consist of a lowered (relative to adjoining sections) section of Contour Channel floodbank. Thus when the water level in the Contour Channel reaches the spillway crest level, spill will begin automatically. The spilled water occupies the floodways before reaching the old course of Lee Creek (now a scheduled drain). This water eventually reaches the Waipori pump station and is discharged into Lake Waipori.

### Hendersons and Waikoura Creeks Floodway

The Hendersons and Waikoura Creeks floodway consists of artificially constructed channels designed to collect flood flows on the north-eastern side of Georgetown-Pukeuri Road (SH83) and convey them to the Waitaki River during significant rainfall events. This floodway is not part of a wider flood protection scheme.

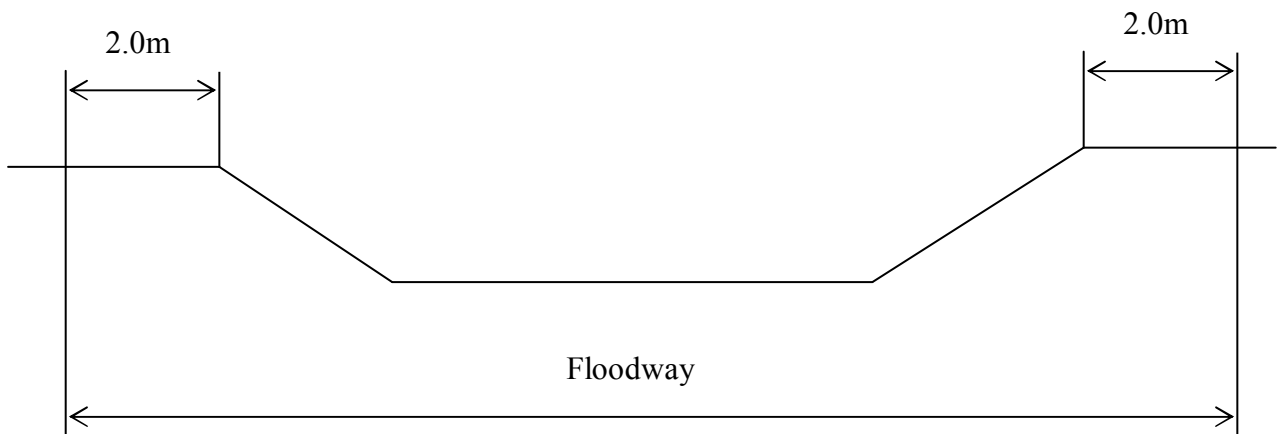
The floodway starts at the artificially constructed sections of the creeks and join at Irvine Road where combined, they follow Irvine Road for approximately 800 metres then follow Jardine Road for about 2,500 metres before entering the Waitaki River through a drop structure.

### Hilderthorpe Floodway

The Hilderthorpe Floodway is a channel, both natural and artificially constructed, designed to convey overland flow from Gray Road to the Hilderthorpe Race alongside Steward Road during significant rainfall events. This floodway is not part of a wider flood protection scheme.

The natural sections of the channel follow the course of a paleochannel.

The map indicates the extent of the Hilderthorpe floodway. The general cross section of the Hilderthorpe floodway is shown below.





## **Fourth Schedule – Groynes, Cross-Banks, Anchored Tree Protection and Plantings**

Maps of groynes, cross-banks, anchored tree protection and plantings owned by or under the control of the *Council*, to which this Bylaw applies.

Lower Waitaki River Groynes, Cross-Banks, Anchored Tree Protection and Plantings



# **Appendix One**

Bylaw Approval Application Form



# Bylaw Approval Application Form



## 1. Applicant(s) Details

Name: \_\_\_\_\_

Organisation name  
(if applicable): \_\_\_\_\_

Postal Address  
\_\_\_\_\_  
\_\_\_\_\_

Phone Number Business \_\_\_\_\_ Post Code \_\_\_\_\_  
Mobile \_\_\_\_\_ Private \_\_\_\_\_  
Fax \_\_\_\_\_

Email Address \_\_\_\_\_

## 2. Property to which this Bylaw Approval Relates

Property Address \_\_\_\_\_  
\_\_\_\_\_

## 3. Diagram of Location of Proposed Works

Please provide a diagram of the property below, detailing where the works are proposed to occur and other relevant diagrams (e.g. cross-section). If possible please also provide photos of the location.



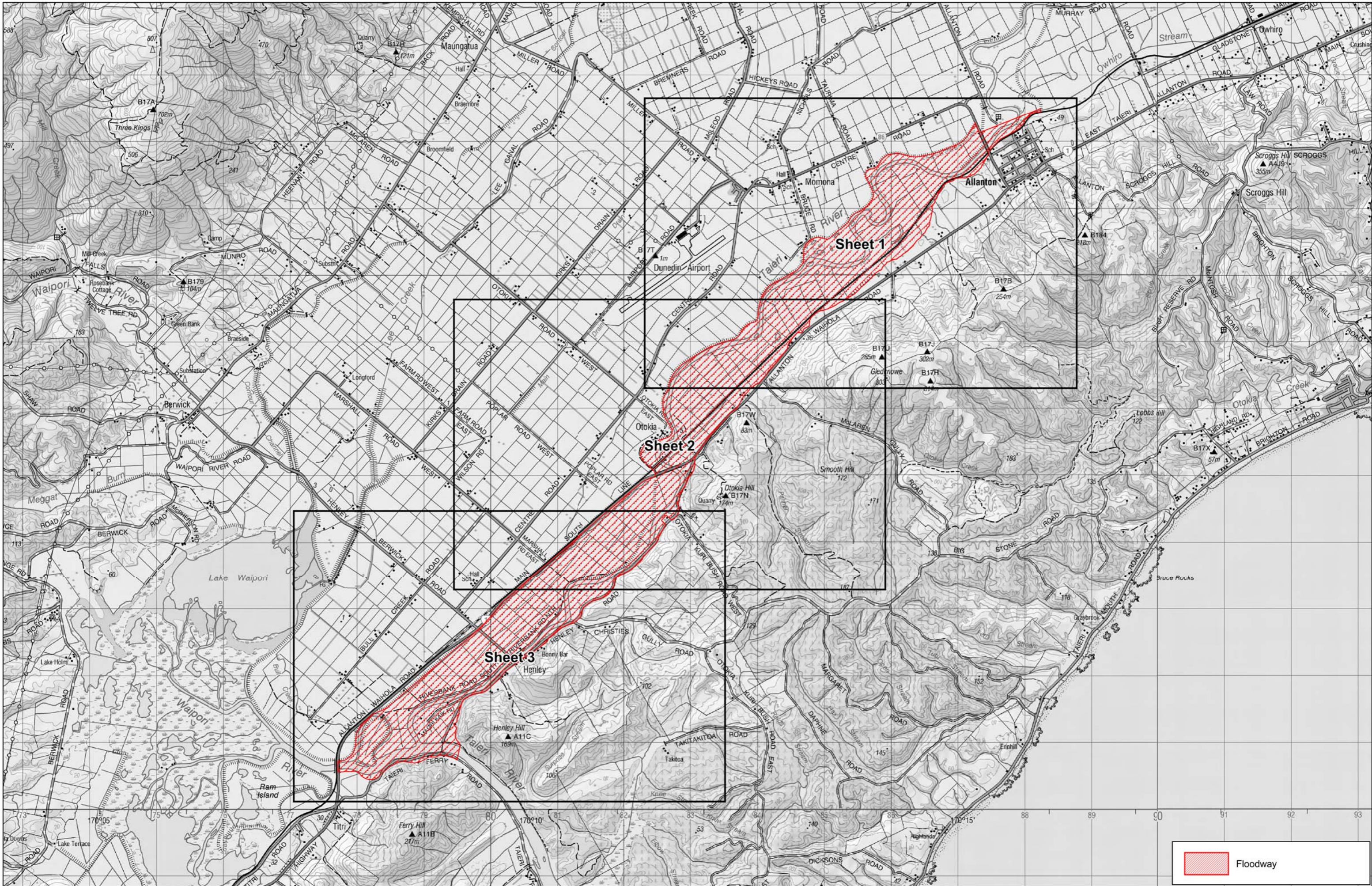


**Appendix 2:  
Proposed Flood Protection Management Bylaw 2012  
(Second Schedule Lower Taieri River Floodway Map)  
incorporating the Decision of Council on submitter  
decisions requested**



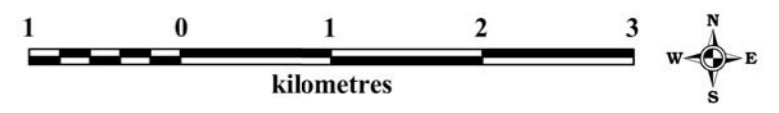




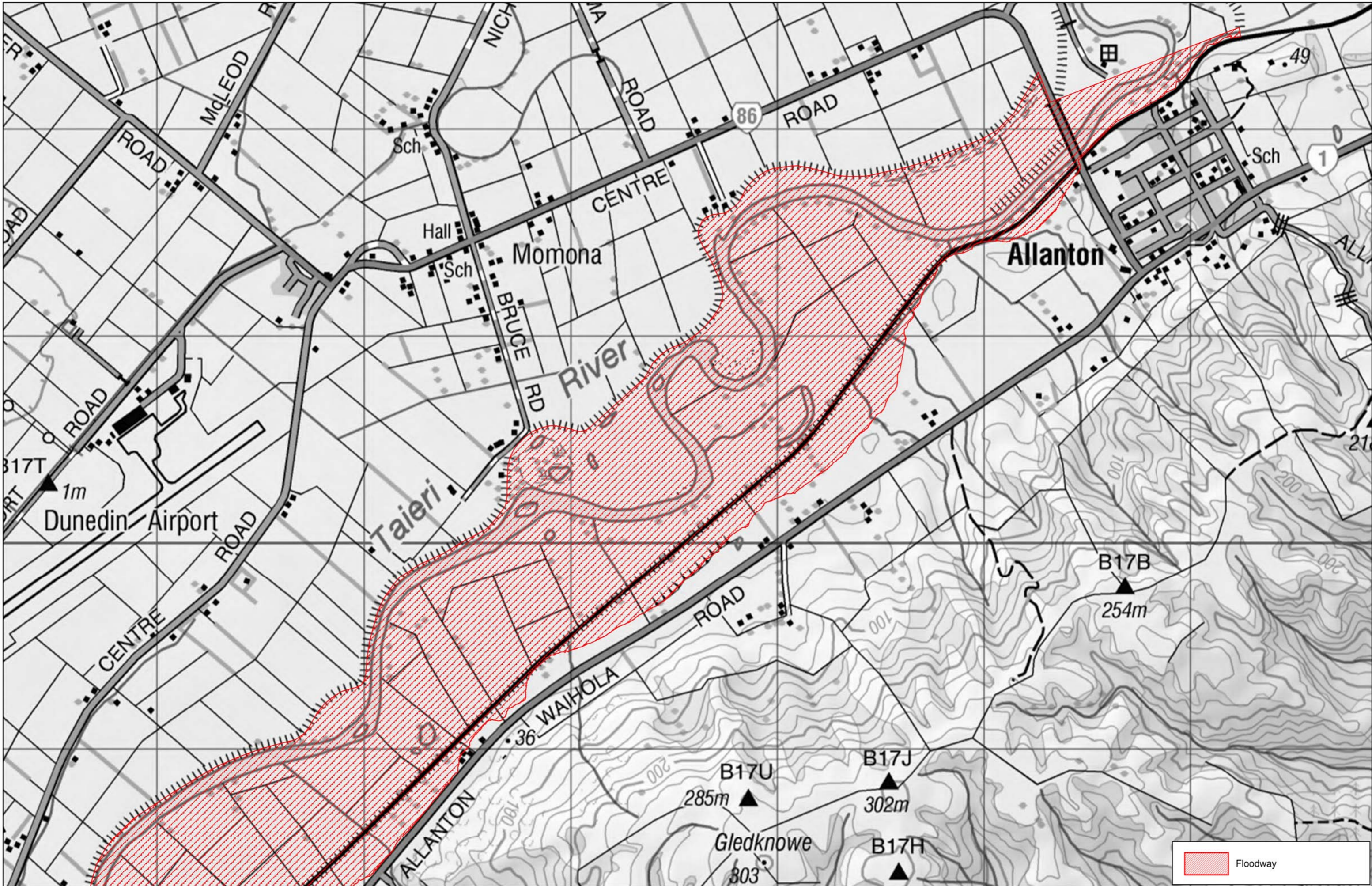


Proposed Flood Protection Management Bylaw, Council Decision 8 August 2012

### Third Schedule Lower Taieri River Floodway Overview

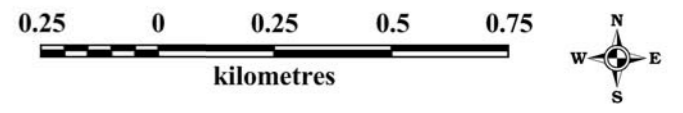




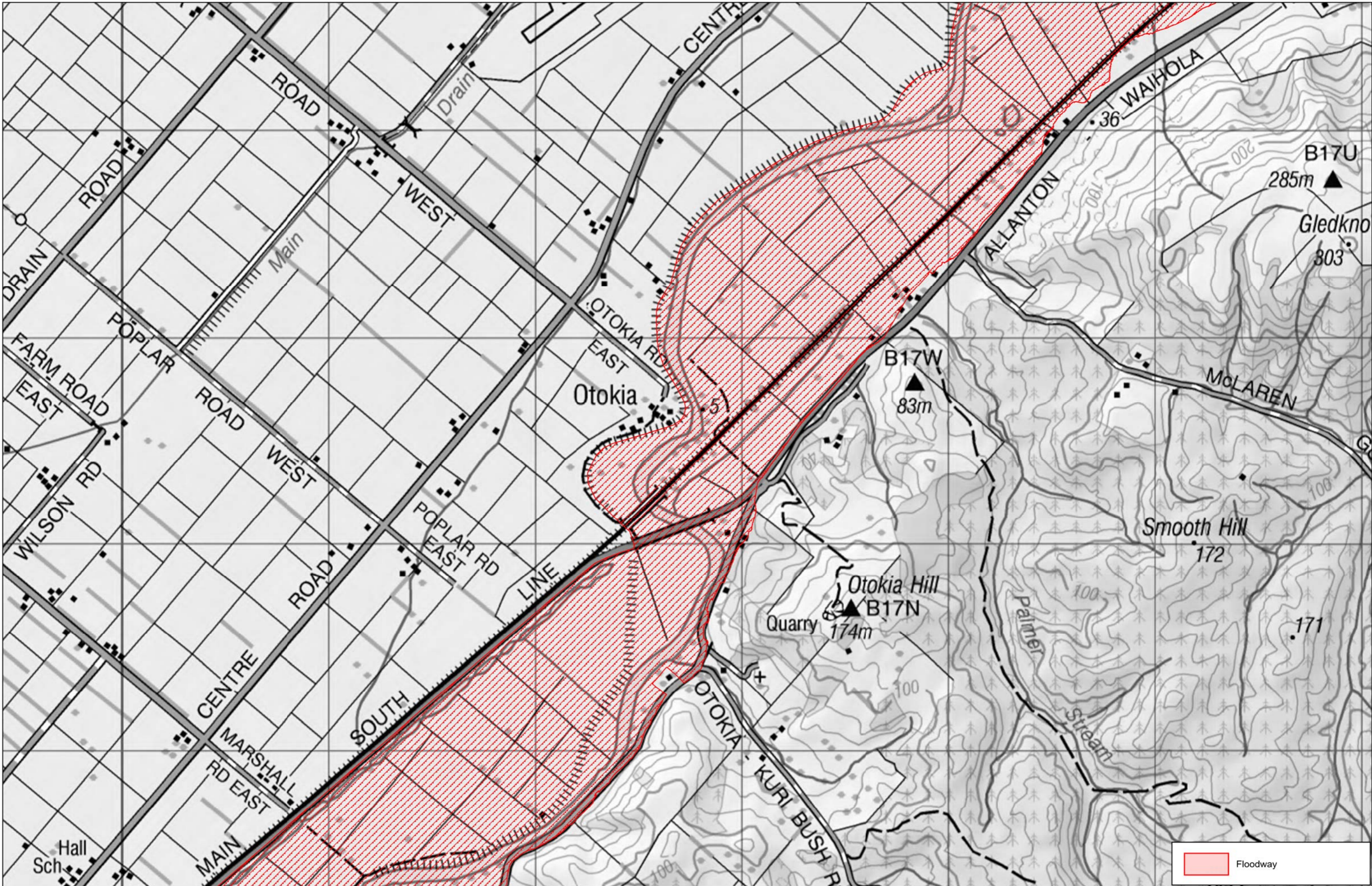


Proposed Flood Protection Management Bylaw, Council Decision 8 August 2012

**Third Schedule  
Lower Taieri River Floodway  
Sheet1**

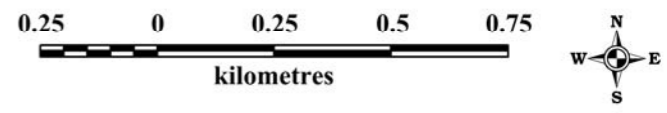




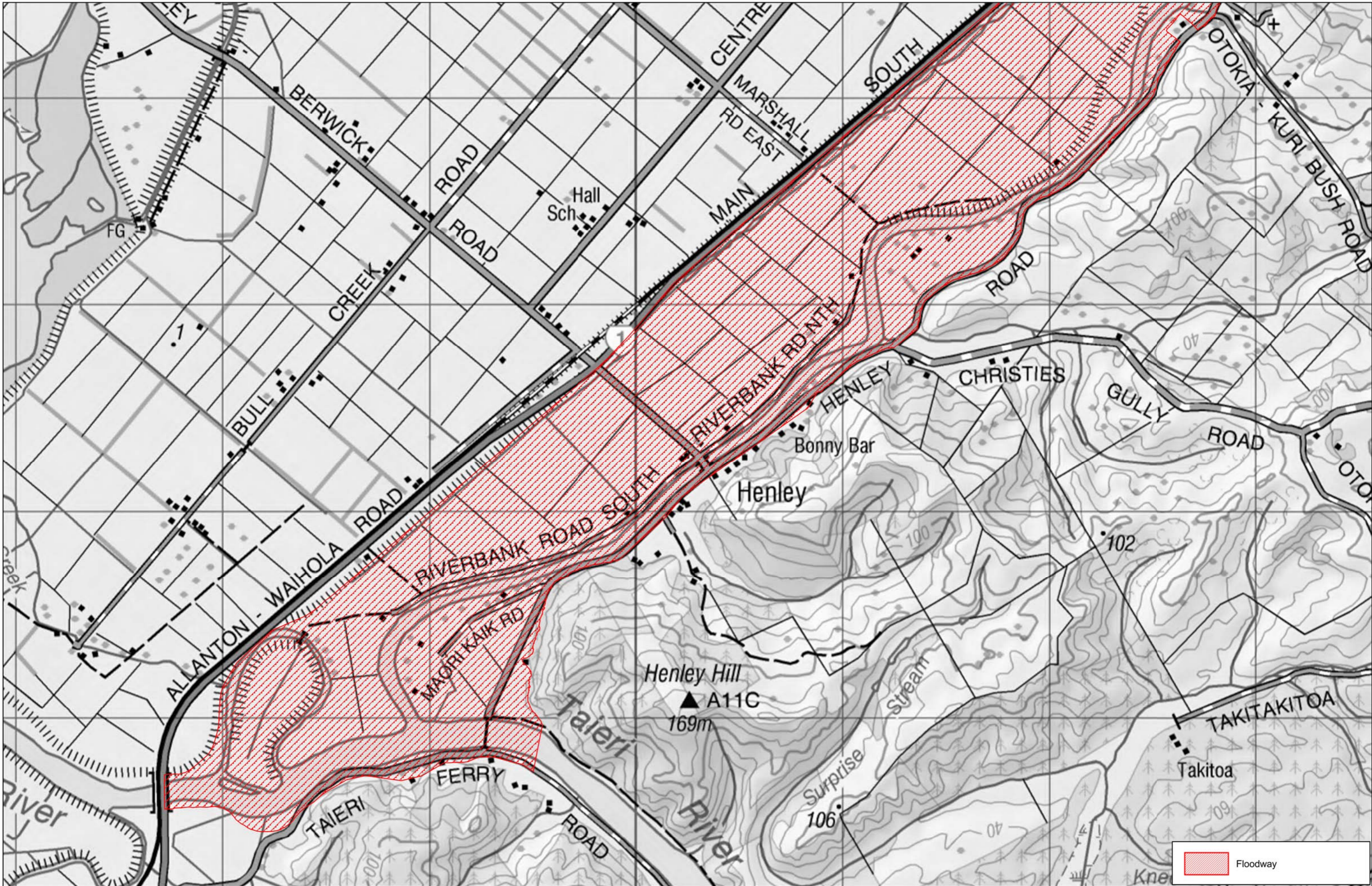


Proposed Flood Protection Management Bylaw, Council Decision 8 August 2012

**Third Schedule  
Lower Taieri River Floodway  
Sheet2**







**Third Schedule**  
**Lower Taieri River Floodway**  
**Sheet3**

