



Flood Protection Management Bylaw 2012


That pursuant to Sections 149(1)(c), 155 and 156 of the Local Government Act 2002, the Otago Regional Council hereby resolves that the Flood Protection Management Bylaw 2012 adopted on 8 August 2012, as amended (attached), is hereby confirmed, and shall come into force on 1 September 2012.

The foregoing resolution was passed at a meeting of the Otago Regional Council on 8 August 2012.

The Common Seal of the Otago Regional Council was hereunto affixed in the presence of:




Chairperson


Chief Executive



Chairperson's foreword

This Flood Protection Management Bylaw 2012 has been prepared under the Local Government Act 2002.

Management, regulation and protection of flood protection works is necessary in order to ensure the effective operation and integrity of flood protection works/ schemes owned by, or under the control of the Otago Regional Council.

Flood protection works are the following features as mapped in the Bylaw: drains, overland flow paths, defences against water, floodways, groynes, cross-banks, anchored tree protection and plantings.

This Bylaw is only intended to control those activities which may affect the integrity or operation of flood protection works.

This Bylaw replaces the former Flood Protection Management Bylaw 2008.

A handwritten signature in black ink that reads "S Woodhead". The signature is written in a cursive, flowing style.

Stephen Woodhead

Chairperson
Otago Regional Council

1 September 2012

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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 1st of September 2012.

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.

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 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 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. 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.

A deposit of \$300 is to be paid with your application, and as appropriate, additional costs be invoiced, or refunds made to reflect the actual costs.

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 m³/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").

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.

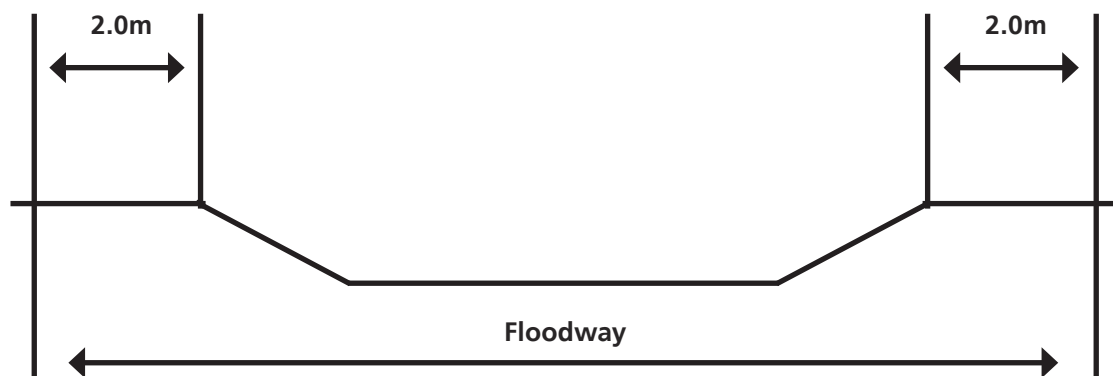
The floodway starts at the artificially constructed sections of the creeks and join at Irvine Road where combined, they follow Irvine Road for approximately 800 metres then follow Jardine Road for about 2,500 metres before entering the Waitaki River through a drop structure.

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

A deposit of \$300 is to be paid with your application, and as appropriate, additional costs be invoiced, or refunds made to reflect the actual costs.



Bylaw Approval Application Form

1. Applicant(s) details

Name _____
Organisation (if applicable) _____
Postal Address _____
_____ Post Code _____
Phone Mobile _____ Home _____
 Business _____
Email _____

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.

