

SECTION 13.9 RIPARIAN LAND MANAGEMENT AND PUBLIC ACCESS DISTRICT WIDE ACTIVITY

13.9.1 INTRODUCTION

The Resource Management Act requires Council to recognise and provide for the preservation of the natural character of waterbodies and their margins and to promote public access to and along the waterbodies in the District. The District contains a number of major river systems and lakes, including the Mohaka, Tutaekuri, Ngaruroro and Tukituki Rivers, Lake Tutira and Lake Poukawa, as well as numerous smaller rivers, lakes and streams.

The margins of waterbodies throughout the District are important elements of the landscape and important habitats for indigenous flora and fauna. They are highly valued for their amenity, landscape, recreation and conservation values. The riparian margins of waterbodies provide a buffer for effects of non-point source discharges, maintain the stability of banks, enhance natural character and landscape values, provide ecological corridors for movement of wildlife, and provide public access and recreational opportunities. Over time, however, waterbodies and their margins can deteriorate because of changes to land use in their catchments. As many waterbodies throughout the District flow through farmland, there has been, and remains potential for modification of the river margin areas by unsustainable land use practices, vegetation clearance, or earthworks. The protection and enhancement of the remaining areas is important to preserve the natural character of waterbodies, and to enable public access to them for public recreational purposes.

The Act provides for the provision of esplanade areas as one method of maintaining and enhancing the natural functioning of waterbodies, protecting their natural values, providing public access, and enabling the public recreational use of them. Esplanade areas can contribute to the conservation values of the margins of rivers, lakes and the coast by providing riparian protection as well as enhancing their public use and enjoyment. The Act provides three tiers of esplanade areas: Esplanade Reserves, Esplanade Strips and Access Strips.

Esplanade Reserves are taken under the Reserves Act 1977 alongside waterbodies. Such reserves are surveyed off and vested in the local authority on subdivisions. The reserve is fixed and does not move with changes in the waterbody. Esplanade Strips are a strip of land alongside waterbodies which allows public access and protects conservation values. Land ownership stays with the landowner, but restrictions on access and use can be noted on the Certificate of Title. Esplanade strips are not required to be surveyed, and they move with changes in the waterbody. Access strips enable public access to existing esplanade reserves or strips. They require a negotiated agreement between the landowner and the territorial authority for a public pedestrian accessway to or along a waterbody. Access strips are surveyed and fixed, but the land ownership remains with the landowner. The conditions of public use are set out in an agreement and are registered against the title to the land.

Provisions are included in this Section of the Plan which both encourage (through voluntary mechanisms in rural areas) and require (through regulatory mechanisms in urban areas) the setting aside of land adjoining waterbodies as esplanade areas for riparian land management and public access purposes. While the use of esplanade areas is considered to be an effective mechanism to ensure the protection of the natural character of the waterbodies in the District, and public access to them, Council also recognises alternative methods of protection of the margins of waterbodies, such as education, the provision of information and alternative regulatory methods such as the control of vegetation removal and the retirement of particular areas may also help achieve Councils conservation objectives.

13.9.2 RESOURCE MANAGEMENT ISSUES

- ***Protection of the riparian margins of waterbodies within the District.***

The Hastings District Council has developed, in conjunction with the Department of Conservation, the Hawke's Bay Regional Council, Tangata Whenua and relevant interest groups, a schedule of areas of land along the margins of waterbodies in the District which are of natural, cultural or recreational significance and which are in need of protection (see Appendix 13.9-1). The schedule prioritises areas for the creation of esplanade reserves. The coastal environment, wetlands, lakes and rivers and their margins are important elements of the landscape and provide habitats for indigenous flora and fauna. The natural character of these areas is potentially threatened by the inappropriate management of their riparian margins. Riparian margins provide, a buffer for the effects of non-point source discharges, enhance water quality, maintain the stability of stream banks, wildlife habitats and protect the natural character of rivers, lakes and wetlands.

- ***Priorities for the protection of significant areas alongside waterbodies in the Rural and Plains zones.***

Generally, the creation of esplanade reserves upon subdivision to protect areas of importance alongside waterbodies in the Rural and Plains Zones, is a slow and haphazard process and it relies entirely on the possibility of the relevant land coming up for subdivision. There is no assurance that the protection of the areas can be achieved in this way. Under the Resource Management Act the Council is also required to compensate landowners for any land which it takes as esplanade reserves on lots of 4 hectares or more. This could incur considerable cost to the community, particularly given the number of areas alongside waterbodies in the District. The Hastings District Council has therefore developed, in conjunction with the Department of Conservation, the Hawke's Bay Regional Council, Tangata Whenua and relevant interest groups, a schedule of areas of land along the margins of waterbodies in the District which are of natural, cultural or recreational significance and which are in need of protection. These areas are identified in a Schedule (Appendix 13.9-1) which may be amended from time to time by Plan Change after further research and consultation between various interest groups.

- ***Subdivision is an effective method of achieving protection of margins of waterbodies in the urban areas of the District.***

The intensive development of urban areas makes the provision of esplanade reserves as community spaces desirable. The Resource Management Act enables the Council to require esplanade reserves of up to 20 metres in width to be vested on subdivision without compensation. Esplanade reserves can also provide good protection for riparian values in urban areas.

- ***Existing esplanade reserves in the rural area are often isolated with no public access.***

In the Rural and Plains Zones, the Council has responsibility for a number of existing esplanade reserves which are not necessarily of any natural, cultural, or recreational importance and which are often in isolated pockets of land with no adequate public access and no linkages to other esplanade reserves. This is unlike the situation in the urban areas where the establishment of esplanade reserves, as a result of subdivision activity, has generally been a successful means of achieving protection of most of the waterbodies and their margins from the effects of intensive land use activities. Because of the more intensive nature of subdivision in the urban areas, most of the esplanade reserves are well linked to each other and there is good public access available to them.

- ***Creation of esplanade reserves in relation to road stopping.***

Where any road (or any part of a road) along the mark of mean high water springs of the sea, or along the bank of any river with an average width of 3 metres or more, or the margin of any lake with an area of 8 hectares or more has been stopped, the Council is required under Section 345(3) of the Local Government Act 1974, to create an esplanade reserve which is vested in the Council. This may result in the establishment of esplanade reserves in areas where they have limited recreational, cultural, or public value. Hastings District has a number of Esplanade Reserves, in the Rural and Plains Zones, that have been created under this legislation which have no natural, cultural, or recreational significance, which are isolated from other reserves, or have no suitable access. Section 77(3)(b) of the Resource Management Act 1991, allows the Council to include a rule in its District Plan, which exempts it from having to create esplanade reserves on road stopping if it wishes.

- ***The establishment of Reserve Management Plans for reserves in the District.***

Where reserves are established under the Reserve Act 1977 they are each required to have a Reserve Management Plan. These plans establish the scope of activities allowed on these reserves and must be in accordance with the purposes for which the reserves are classified under the Act. These plans are developed in consultation with relevant community groups and must be approved by the Minister of Conservation. It is important that the District Plan recognises the role which Reserve Management Plans have in managing the scope of activities that can be established on reserves.

- ***The opportunity for landowners to undertake the voluntary setting aside of land for conservation purposes.***

The Queen Elizabeth II Trust Act 1977, the Reserves Act 1977 and the Conservation Act 1987 all provide for individuals to voluntarily set aside land for conservation purposes. This enables land to be protected in the public interest without the need for public acquisition. The Council together with other statutory authorities will need to adopt measures that encourage and support individual landowners taking such initiatives.

13.9.3 OBJECTIVES

- *RM01 To protect areas of the coastline and the margins of rivers, lakes and streams that are identified as being of significant, natural, cultural, or recreational value.*
- *RM02 To encourage the development of Reserve Management Plans for all reserves administered under the Reserves Act 1977.*
- *RM03 To recognise the importance of the natural character of the riparian margins of the coastal environment, wetlands, lakes and rivers, protect them from inappropriate subdivision, use and development and promote their preservation and enhancement.*

13.9.4 POLICIES

- RMP1 Require the establishment of esplanade reserves when land is subdivided in the General Residential, Plains Residential, Coastal Residential, Commercial and Industrial Zones.**

Explanation

An esplanade reserve with a width of 20 metres will be taken on any allotment of less than 4 hectares which is created when land is subdivided in the General Residential, Plains Residential, Coastal Residential, Commercial or Industrial Zones and where it abuts the margin of any lake over 8 hectares, any river greater than 3 metres in width, or the sea. This will ensure that where intensive subdivision occurs a continuous reserve alongside waterbodies or the coast is provided (See Rule 15.1.9.6 of Section 15.1 of the District Plan).

- RMP2 Provide for (where it is appropriate) the waiving of requirements for esplanade reserves in the Residential, Commercial and Industrial Zones.**

Explanation

The Resource Management Act 1991 enables the Council to specify in the District Plan the circumstances in which a waiver or variation of the width of an esplanade reserve will be allowed. Applications for waivers will be considered on a case-by-case basis and will be assessed in accordance with Specific Performance Criteria (Terms). (See Rule 15.1.10.2(5) of Section 15.1 of the District Plan).

- RMP3 Encourage the voluntary establishment of esplanade reserves or esplanade strips alongside waterbodies when land is subdivided in the Rural and Plains Zones particularly with respect to riparian areas identified in the Hastings District Plan as having natural, cultural or recreational significance.**

Explanation

The Council will not require the setting aside of esplanade reserves on subdivisions in the Rural and Plains Zones. Instead, the Council has identified (in consultation with the Department of Conservation, Tangata Whenua, the Hawke's Bay Regional Council, and key interest groups) areas of land alongside waterbodies in the Rural and Plains Zones which are considered to be of natural, cultural or recreational significance. These riparian areas are identified in Appendix 13.9-1. The Council will instead seek to provide for the protection of these areas and land adjoining the sea, by encouraging, through the provision of information, the relevant landowners to voluntarily set aside land under Section 22 of the Queen Elizabeth the Second National Trust Act 1977 (via open space covenants), Section 76 of the Reserves Act 1977 (via declaration of private protected land), or Section 77 of the Reserves Act 1977 (via conservation covenants) or by direct negotiation with the relevant landowners to establish esplanade strips.

- RMP4 Provide incentives for the voluntary setting aside of land adjacent to rivers, lakes or the sea in the Rural and Plains Zones, which are identified in of the Hastings District Plan as being of natural, cultural or recreational significance.**

Explanation

The Rating Powers Act 1988 empowers the Council to postpone or remit rates. The Council will utilise this power to provide an incentive for landowners to voluntarily set aside land in the Rural or Plains Zones which is of natural, cultural or recreational significance and is which identified in Appendix 13.9-1 of the District Plan. In considering applications for rates relief the Council is specifically bound by Sections 180G, 180H, 180J and Part I of the Rating Powers Act 1988.

- RMP5 Take esplanade reserves when roads are stopped in the Rural or Plains zones where the establishment of the reserve would be consistent with the objectives of the Hastings District Plan and/or where the reserve was identified in the Hastings District Plan.**

Explanation

Section 345(3) of the Local Government Act 1974 requires that, where any road (or any part of a road) along the mark of mean high water springs of the sea, or along the bank of any river with an average width of 3 metres or more, or the margin of any lake with an area of 8 hectares or more is stopped, an esplanade reserve is to be vested in the Council. However Section 77(3)(b) of the Resource Management Act 1991 allows the Council to include a rule in its District Plan which enables it to take more or less land or not apply the provisions of the Local Government Act 1974. Many of the esplanade reserves created as a result of stopped roads historically have little reserve value or have had no suitable access. They accordingly serve little purpose. The Council will therefore exercise its discretion where it receives a request for road stopping as to whether it will require an esplanade reserve to be provided or not.

- RMP6 Facilitate the provision of public access to existing esplanade reserves in the District which are currently landlocked or isolated from other esplanade reserves.**

Explanation

There are a number of existing esplanade reserves in the District that are landlocked or have no legal access. The Council will identify these esplanade reserves and will endeavour to facilitate access to them where appropriate. This may include the addition of a condition on some subdivision consents for the provision of access strips in order to provide access to existing esplanade reserves.

- RMP7 Dispose of existing esplanade reserves which have no recreational, cultural or natural significance worthy of protection or where no reasonable access can be provided.**

Explanation

Currently the Council is responsible for the ongoing maintenance of a large number of esplanade reserves in the District. This incurs significant costs to the community each year. It is therefore intended that where existing esplanade reserves have no recreational, cultural or natural value and/or where the Council will offer ownership of the esplanade reserves back to the adjoining landowners appropriate access cannot be provided to them.

- RMP8 Consider the necessity of requiring esplanade strips when land is subdivided in the Rural, Plains or Rural Residential Zones.**

Explanation

Council will consider requiring an esplanade strip with a maximum width of 20 metres on any allotment created when land is subdivided in the Rural, Plains or Rural Residential Zones, where the land abuts the coast, or a waterbody of natural, cultural or recreational significance, adjoins an existing esplanade area and will achieve the purposes of Section 229 of the Resource Management Act.

- RMP9 To encourage and promote land management practices along the margins of the coastal environment, wetlands, lakes and rivers that provide for the preservation of the natural character of those margins.**

Explanation

Council has an obligation under the Resource Management Act to protect the natural character of the margins of waterbodies from inappropriate subdivision, use and development, and in particular the effects of land use activities on waterbodies. Council provides incentives to landowners to protect those waterbodies and their margins in the District that have been identified as being of natural, cultural or recreational significance. It will, however, use alternative methods such as the provision of information and education to encourage and promote land management practices for land adjoining all waterbodies in the District, not identified in Appendix 13.9-1, but which may still have important riparian values. The promotion of voluntary methods of riparian retirement is recognised by Council as a necessary component of achieving riparian land management by preserving and protecting the natural character, quality and functioning of the waterbodies and their margins in the District.

- RMP10 To encourage and promote the retention of indigenous riparian vegetation, and the establishment of riparian vegetation on the margins of the coastal environment, wetlands, lakes and rivers, and, where appropriate, to require new land use activities to avoid, remedy or mitigate the adverse effects of land use on water quality, including the retention and planting of riparian vegetation.**

Explanation

Council recognises the importance of riparian vegetation to the preservation of the natural character of the margins of the coastal environment, wetlands, lakes and rivers. It also recognises that it is inappropriate to regulate the retention or establishment of such vegetation until those areas which require such management have been identified. Council will therefore support the Hawke's Bay Regional Council's objectives in the Regional Plan to identify riparian areas throughout the District where existing indigenous riparian vegetation should be maintained or enhanced and where the establishment of appropriate riparian vegetation is desirable. Council will review its methods of riparian land management once the study is completed. In the interim Council may, where appropriate, require new land use activities requiring resource consent to avoid, remedy or mitigate the adverse effects of land use on water quality, including the retention and planting of riparian vegetation, as a condition of resource consent.

13.9.5 METHODS

The Objectives and Policies will be implemented through the following Methods:

- **Hastings District Plan**

Riparian Land Management and Public Access DWA: The Riparian Land Management and Public Access District Wide Activity identifies those areas in the Rural and Plains Zones of the District where Council has identified the opportunity to provide esplanade reserves and alternative mechanisms for the protection of waterbodies throughout the District to ensure the sustainable management of them and public access to them.

Subdivision and Land Development (Section 15.1)

Esplanade Areas: These rules identify where esplanade areas are required to be vested in Council on subdivision and the situation and condition under which Council may reduce or waive the requirement to provide esplanade reserves.

Reserve Contributions (Section 15.2): These rules identify where financial contributions are required to fund the acquisition of new reserves, or the development of reserves, where subdivision or building consents for new dwellings are undertaken.

- **Riparian Areas in the Rural and Plains Zones identified as being of Natural, Recreational, or Cultural Significance**

The District Plan identifies these areas of the District where the establishment of esplanade reserves is considered desirable. These are listed in Appendix 13.9-1. This Appendix will be regularly reviewed in conjunction with the Department of Conservation, Hawke's Bay Regional Council, and interested groups basis to ensure that it remains accurate.

- **Hastings District Council Annual Plan**

For Council initiated and funded works for the provision of reserves and the maintenance, improvement or development of them.

- **Reserves Act 1977 and Reserve Management Plans**

These determine the scope of activities that can be established on reserves which are approved by the Minister of Conservation and outline the management regime necessary to provide for the ongoing use and enjoyment of the reserve.

- **Rating Powers Act 1988**

Where land is voluntarily set aside and legally and physically protected or classified as an esplanade reserve, Council may utilise its powers under the Rating Powers Act 1988 to grant rates relief.

- **Voluntary Mechanisms**

Council will facilitate and promote the voluntary protection of riparian margins of waterbodies within the District. Existing and prospective landowners of land comprising waterbodies will be identified and informed of voluntary methods available for protecting these areas, such as sustainable land management practices and the benefits of retaining, establishing and enhancing appropriate riparian vegetation.

- **Hawke's Bay Regional Water Resources Plan**

Council supports the provisions included in the Hawke's Bay Regional Council's Water Resources Plan for determining appropriate and prioritised land management practices for specific riparian areas in the District. Where appropriate, the District Plan may be changed to incorporate additional methods, including rules, where these are necessary or desirable to achieve the purposes of the Resource Management Act.

- **Research and Information**

While the findings of the Hawke's Bay Regional Council study determining appropriate and prioritised land management practices for specific riparian areas in the District will be useful, it is recognised that the focus of such research will be on water quality. It may therefore be necessary for Council to undertake further research and investigation to complement this study, from a wider land management perspective.

- **Direct Negotiation with Landowners**

Where considered appropriate or necessary, Council may directly negotiate with landowners to encourage them to voluntarily establish an esplanade reserve or strip alongside the coast or waterbodies, particularly with respect to those areas identified within the Plan as having natural, cultural or recreational significance.

13.9.6 ANTICIPATED OUTCOMES

It is anticipated that the following specific outcomes will be achieved:

- The preservation of conservation values and the provision of public access, and the recreational use of land on the margins of rivers, lakes and the sea in the District, having recreational, cultural and natural significance.
- Protection of the margins of waterbodies in the urban area where there is intensive development.
- The protection of riparian margins of the coastal environment, wetlands, lakes and rivers in the District by appropriate land management practices, and the establishment and retention of appropriate riparian vegetation, and the setting aside of esplanade areas adjoining significant waterbodies.

13.9.7 RULES

The activity status and Performance Standard requirements provided for in rules of this District wide activity may be modified by the specific provisions of individual Resource Management Units (RMUs). It will be necessary to check first whether the activity is located within a RMU. Any activity must first comply with the RMU provisions before applying the following rules.

13.9.7.1 PERMITTED ACTIVITIES

The following activities shall be Permitted in any zone in the District, provided that they comply with the General Performance Standards and Terms in Section 13.9.8.

- **RIPARIAN VEGETATION MODIFICATION**

13.9.7.2 RESTRICTED DISCRETIONARY ACTIVITIES

Applications for Restricted Discretionary Activities will be assessed and conditions may be imposed in relation to those matters identified in Section 13.9.9 that Council has restricted its discretion over.

- RIPARIAN VEGETATION MODIFICATION NOT MEETING ONE OR MORE OF THE GENERAL PERFORMANCE STANDARDS AND TERMS IN SECTION 13.9.8

13.9.8 GENERAL PERFORMANCE STANDARDS AND TERMS

The following General Performance Standards and Terms apply to all Permitted Activities.

13.9.8.1 RIPARIAN VEGETATION MODIFICATION

Riparian Vegetation Modification may not take place in an area which:

- (a) is within 15m (measured from the edge of the bed of the river) of the sections of any rivers identified in Appendix 13.9-1 or as List 1 in Appendix 13.9-2
- (b) is within 5m (measured from the edge of the bed of the river) of any river identified as List 2 in Appendix 13.9-2
- (c) is within 20m of any lake or wetland identified in Appendix 13.9-1 or 13.9-2

Note: This standard should be read in conjunction with the definition of "Riparian Vegetation Modification" in Section 18.0 of this Plan.

13.9.9 ASSESSMENT CRITERIA - RESTRICTED DISCRETIONARY ACTIVITIES

For Restricted Discretionary Activities, the following identify those matters which Council has restricted its discretion over in assessing resource consent applications:

- (a) The significance of the riparian vegetation to habitats of indigenous fauna, trout and game birds;
- (b) The significance of the riparian vegetation in terms of intrinsic, cultural or amenity values;
- (c) The extent to which the modification can be mitigated or remedied by measures such as restoration or enhancement; or replaced with vegetation of a similar or greater size and coverage.

APPENDIX 13.9-1

**RIPARIAN AREAS IN THE RURAL AND PLAINS ZONES IDENTIFIED AS BEING OF
NATURAL, RECREATIONAL OR CULTURAL SIGNIFICANCE**

WATERBODY	VALUES			
	CONSERVATION	RATING	RECREATION AND ACCESS	RATING
Lake Rotookiwa	Wetland bird, fisheries and vegetation Habitat Cultural values	High	Water fowl hunting Passive recreation	Medium
Lake Tutira	Fisheries Wetland Birds Wetland vegetation Soil & water conservation	High	Fishing Passive Recreation Boating	High
Waipunga River	Native fauna & fish Native vegetation Soil & water conservation	High	Rafting, Canoeing, Fishing	High
Toropapa Stream	Native vegetation Native fish habitat Wildlife habitat, blue duck, kiwi, soil and water conservation	High	Hunting	High
Mokomokonui River Moose Stream Mokomokoma Stream	Native vegetation Wilderness. Native fish habitat. Wildlife habitat, blue duck, kiwi, soil water conservation	High	Fishing Hunting Tramping	High
Matakahuia Stream	Native vegetation Native fish habitat Wildlife Habitat, blue duck, kiwi, Soil Conservation	High	Water fowl shooting Fishing Hunting, Tramping	High
Peka Peka Swamp	Wetland birds & vegetation Native fisheries Flood Control	High	Water fowl shooting Fishing (cultural) Passive recreation	High
Ngaruroro River	Soil conservation and River Control Wildlife Habitat	High	Fishing Swimming Water fowl & upland game hunting	High
TukiTuki River 1	Soil Conservation & River Control Wildlife Habitat	High	Fishing, Swimming, Water fowl & upland game hunting	High
TukiTuki River 2	Soil & water conservation Waterbird Habitat Fisheries (native & sports)	High	Fishing Swimming Passive Recreation Canoeing	High
Maraetotara River	Fisheries Habitat Water fowl habitat Wetland vegetation Cultural values	High	Fishing Passive recreation	High
Lake Poukawa	Wetland bird, fisheries and vegetation habitat Cultural values	High	Water fowl shooting Passive recreation	Medium
Mohaka River	Fisheries habitat Beech Forest	High	Fishing, Hunting, Rafting and Tramping	High

APPENDIX 13.9-2

LIST 1: see standard 13.9.8.1 (a)

WATERBODY	PLANNING MAP
Lake Runanga	14
Lake Oingo	14
Makahu River	6, 7
Ripia River	4, 7
Inangatahi Stream – downstream of Potter Road, as mapped	7
Tutaekuri River	6, 10, 11, 14, 15
Mangatutu River, downstream of Hawkston Road, as mapped	11
Mangaone River, downstream of Mangarangiora Stream, as mapped	11, 14
Ohara Stream downstream of Mangleton Road, as mapped	13, 16
Poporangi Stream downstream of Duff Road, as mapped	13, 14, 16
Papanui Stream, as mapped	20
Esk River – downstream of Berry Road, as mapped	8, 12
Waikari River downstream of Heays Access Road, as mapped	5, 8, 9
Waikoau River downstream of Mangaroa Stream, as mapped	8
Aropaonui River	8

LIST 2: see standard 13.9.8.2 (b)

WATERBODY	PLANNING MAP
Karamu Stream	15, 18
Some Waikari Tributaries, as mapped	5, 8
Some Esk Tributaries, as mapped	7, 8, 11, 12
Waikoau River - upstream of the Mangaroa Stream as mapped	5, 8
Maraekakaho River	17, 20
Poporangi Stream - upstream of Duff Road, as mapped	16
Tutaekuri-Waimate	14, 15
Inangatahi Stream – upstream of Potter Road, as mapped	7
Waitio Stream	14, 17
Mangatutu River - upstream of Hawkston Road, as mapped	7, 11
Mangaone River - upstream of Mangarangiora Stream, as mapped	7, 11