

Statement of Proposal

Proposed River Control and Flood Protection Bylaws for Taranaki

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The Taranaki Regional Council (the Council) is seeking public comment on a proposal to adopt the *River Control and Flood Protection Bylaws for Taranaki 2020*.

The proposed bylaws have been developed to protect river control and flood protection assets, including floodways, defences against water, flood protection vegetation, hydrological devices and equipment and survey benchmarks managed by, or under the control of the Council.

There are currently no bylaws or other regulatory or non-regulatory measures in place to ensure the protection of the aforementioned assets.



Image: Waitara River stopbank and erosion control.

Purpose of the Bylaws

Flood protection and river control assets are constructed to prevent damage, danger and distress to the community from river flooding. It is crucial that these assets are functioning properly when needed.

The purpose of the Bylaws is to protect flood protection and flood control works belonging to or under the control of the Council from damage or misuse by people undertaking activities within the vicinity of these works.

The Bylaws only control activities that may affect the integrity or effective operation and maintenance of the flood protection and flood control works.

The Bylaws **do not apply** to any privately owned/managed drainage or flood protection systems or those that are managed by other local authorities.

Under the Bylaws, Council may issue "Bylaw Authorities" to allow landowners to carry out works in accordance with the requirements of the Bylaws.

The purpose of local government is to:

- enable democratic local decision-making and action by, and on behalf of, communities; and
- to meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses.

In order to effectively manage local flood protection and river control infrastructure, the Council has the optional ability, under the *Local Government Act 2002*, to develop specific rules to manage and control this infrastructure through Bylaws.

The best way to do this is through formal consultation with those affected under a prescribed process outlined in the *Local Government Act 2002*.

Legislative compliance

Under **section 155** of the *Local Government Act 2002* in the making of Bylaws the Council has to consider whether:

- the proposed Bylaws are the most appropriate way of addressing a perceived problem;
- the proposed Bylaws are the most appropriate form of Bylaws, and
- the Bylaws are not inconsistent with the *New Zealand Bill of Rights Act 1990*.

Appropriateness of Bylaws to address a perceived problem

To that end, the Council has identified in the table below alternative methods to using Bylaws to ensure protection and efficient operation of the flood protection and drainage systems.

Options considered	Reasons for rejection or acceptance
Status quo	<ul style="list-style-type: none"> • River control and flood protection assets are vulnerable to misuse and/or damage which may leave communities vulnerable in a flood or extreme weather event. • Council have no powers to enforce appropriate behaviour in relation to the infrastructure or to prosecute if necessary. • Effects of damage or misuse of assets may be of significant cost to repair. <p style="text-align: right;">Outcome - Rejected</p>
Amending the Freshwater Plan for Taranaki to include rules	<ul style="list-style-type: none"> • RMA plans manage complex natural resource issues or implement national policy statements. Protection of assets is not a natural resource issue. • Unreasonably costly and lengthy process to prepare and amend regional plans. • RMA plans require high level of public consultation that is warranted for this issue and after considering other options. • A RMA plan would require anyone undertaking an activity addressed in the plan to apply for a resource consent which is costly and takes time to process and may involve additional hearings and costs depending on the significance of the consent. <p style="text-align: right;">Outcome - Rejected</p>
Transference of powers to district councils	<ul style="list-style-type: none"> • The Council manages, operates, and in many cases, owns the land and the assets. The Council has the necessary experts to make determinations for the most appropriate use and management of activities associated with the assets as opposed to district councils whose experts are not familiar with the specific nature of the infrastructure. • Management of different assets may be divided into different districts and therefore risk inconsistent management across the region. • District councils may have differing capacity and resourcing to adequately protect the assets. <p style="text-align: right;">Outcome - Rejected</p>
Strategy/collective agreement with land owners	<ul style="list-style-type: none"> • Non-regulatory tool relies on the good will of land owners. • Non-binding agreements between certain parties/persons do not include the wider public. • Not enforceable. • Will require additional engagement and effort by Council for changes of land owners to draw up new agreements. <p style="text-align: right;">Outcome - Rejected</p>
New bylaw under the Local Government Act 2002	<ul style="list-style-type: none"> • The <i>Local Government Act 2002</i> provides powers for regional councils to enforce bylaws • The Council is the most appropriate enforcement authority. • Bylaw authority process has proven to work well for other regions around the country and is not cost or time prohibitive for proponents. • The engagement process for the adoption of the bylaws is considered appropriately proportionate to the nature of the issue being managed • The cost and time of adopting the Bylaws is proportionate to the size of the issue being addressed. This is considered the most appropriate option for ratepayers. <p style="text-align: right;">Outcome - Accepted</p>

Most appropriate form of Bylaw

Under the *Local Government Act 2002*, the Council must determine whether the Bylaws are in the most appropriate form (e.g. standalone, amendment to existing document, consolidation with other bylaws). The Council has determined that a standalone document is appropriate. There are a number of reasons why the Council believes a standalone document is the most appropriate form of Bylaw.

A standalone document:

1. Holds all of the relevant regulations in one place and is easily accessible
2. Focusses only on flood protection and drainage
3. Ensures that the Bylaws and the matters being addressed cannot be confused with others
4. Is relatively short and concise and can be easily printed or referenced in its entirety
5. Becomes a repository for all the legal matters associated with protection of flood protection and drainage

New Zealand Bill of Rights Act 1990

Under section 155(3) of the *Local Government Act 2002* the Council must determine that the Bylaws are not inconsistent with the *New Zealand Bill of Rights Act 1990*.

The *Bill of Rights Act 1990* protects the civil and political rights of all New Zealanders. The Act covers:

- Life and security of the person
- Democratic and civil rights
- Non-discrimination and minority rights
- Search, arrest and detention
- Criminal procedure
- The right to justice

The Council considers the Bylaws as proposed here, are not inconsistent with the *Bill of Rights Act 1990*.



Image: Waitara River stopbank West Quay from Manukorihi

Public consultation and submissions

Copies of the *Proposed River Control and Flood Protection Bylaws for Taranaki* are available:

- Online at www.trc.govt.nz/river-control-bylaws/
- At the Taranaki Regional Council offices at 47 Cloten Road, Stratford, 4352
- On request from the Taranaki Regional Council by:
 - emailing bylaws@trc.govt.nz
 - or phoning 0800 736 222.

The Taranaki Regional Council welcomes your views and feedback.

Any organisation or member of the public may make a submission on the proposed *River control and flood protection bylaws for Taranaki 2020*.

A submission is a statement in support of, or in opposition to, any part of this statement of proposal or the proposed *River control and flood protection bylaw for Taranaki 2020*.

Submissions should focus on:

- The effectiveness of the proposed bylaws in protecting river control and flood protection assets;
- Identifying any cross boundary or management issues; and
- Identifying any gaps or additional activities required to address the protection of river control or flood protection assets.

To have your say, you can:

- Make an on-line submission at www.trc.govt.nz/river-control-bylaws/
- Emailing your submission to bylaws@trc.govt.nz and including 'Submission on the Proposed River Control and Flood Protection Bylaws for Taranaki' as the subject heading; or
- by posting your submission to Taranaki Regional Council, Private Bag 713, Stratford 4352 and including as the subject 'Submission on the Proposed River Control and Flood Protection Bylaws for Taranaki'.

Public submissions start at 8am on Monday 27 July 2020 and close at 5pm on Friday 21st August 2020.

When making a submission:

- Clearly state your name, address, email, telephone number and preferences on being heard at a hearing;
- State the most important points you want the Taranaki Regional Council to consider;
- Make your comments as specific as possible; and
- Include the relevant section to which your comments refer.

Hearings relating to the proposed Bylaws will be scheduled following receipt of submissions.