

Kaupapa Mahinga Whenua Ārai Waipuke (Flood Control Land Use Policy)

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Kaupapa | Flood Control Land Use Policy

WHAKATAKINGA | INTRODUCTION

Te Kaunihera o Te Tairāwhiti | Gisborne District Council (Council) manages approximately 76 kilometres of flood control land and associated assets in Te Tairāwhiti.

Council has a legislative responsibility under the Resource Management Act 1991, the Local Government Act 2002, the Soil Conservation and Rivers Control Act 1941, and the Public Works Act 1981 to manage flood risk throughout Te Tairāwhiti. Council's statutory powers extend to managing and undertaking works on flood protection assets it owns or administers. Council cannot issue licences or approvals for activities on private land, including private stopbanks or privately owned flood protection schemes. While Council may undertake operational works on private land under specific statutory powers, it does not have authority to receive, assess, or grant applications for third-party activities on private stopbanks.

Where Council provides flood protection infrastructure, stopbanks are a primary tool used to reduce flood risk for communities. Stopbanks must be managed carefully to ensure that they perform during flood events. For areas within an established flood protection scheme, our communities reasonably expect Council to maintain agreed levels of service and to ensure maintenance is carried out efficiently and cost-effectively.

While the primary purpose of stopbanks and flood control land is flood protection, Council recognises that certain non-flood-related activities may be appropriate where they do not compromise the function or integrity of flood protection assets. Activities such as grazing, water extraction infrastructure, and limited recreational use can support community wellbeing, contribute to local economic activity, and assist with land maintenance. For example, grazing reduces the need for Council-funded mowing and vegetation control.

This policy provides a framework for enabling such activities in a controlled and consistent manner, ensuring that any approved use maintains the required level of flood protection and aligns with Council's responsibilities as asset owner.

TE ARONGA | PURPOSE

The purpose of this policy is to set out the processes for:

- Making an application to use Council-owned/Managed flood control land
- How Council will assess applications and make decisions whether or not to grant use of flood control land for a particular activity

This policy is underpinned by Council's Te Tiriti Compass. Council acknowledges the history and impact of land ownership and alienation throughout Te Tairāwhiti. Responsible management of Council-owned land, including through this policy, contributes to achieving the long-term vision set out in Te Tiriti Compass.

For the sake of clarity, under this policy flood control land is defined as "land held for soil conservation and river control purposes".

TIROHANGA WHANUI | SCOPE

This policy applies to Council-owned or Council-managed flood control land, meaning land held by Council for soil conservation, river control, and flood protection purposes (including stopbanks, berms, floodways, and associated flood protection assets). The policy does not apply to privately owned stopbanks or privately owned flood protection schemes.

This policy applies to all assets and land listed in the Schedule of Flood Control Assets and Land **(Appendix 1)**. Council may amend the schedule at its discretion. The policy does not apply to private land, including private stopbanks or privately owned flood protection schemes, as Council has no authority to receive or process applications for activities on such land. Existing rollover licences will be reissued under this framework where appropriate, with any ongoing fees set through Council's Fees & Charges Schedule.

The policy guides how Council will assess and consider applications for activities on Council's flood control land and assets in Te Tairāwhiti. The policy does not apply to Council's own flood protection work.

The policy applies to applications to use flood control land for any activity, but Council expects to receive applications most commonly for:

- Infrastructure through or over stopbanks or flood control assets
- Stock grazing
- Access (vehicle, livestock or pedestrian)
- Recreational activities or community events (one-off or periodical)

Licences/leases currently in place that pre-date this policy will be reissued under this framework where appropriate, with ongoing fees assessed according to the Fees & Charges Schedule.

TE WHĀINGA | OBJECTIVE

The objective of this policy is that decisions by Council on use of its flood control land for non-flood protection activities are made on a consistent, fair and transparent basis and do not compromise the effectiveness of flood control measures.

NGĀ MĀTĀPONO | PRINCIPLES

All decisions made in relation to applications to use flood control land will reflect these principles:

- Public health and safety – Council will assess applications in the interests of public health and safety to ensure that activities do not compromise the standard of flood protection provided by the stopbank or other flood control asset.
- Statutory and regulatory compliance – Council will operate within the framework(s) of applicable legislation when it assesses applications. This policy does not replace legislative requirements e.g. resource consents that may be required for a particular land use.
- Financial responsibility – Council will endeavour to get the best value for public money and maximise the value of its assets in assessing applications.
- Information management – Council will keep information about Council-owned or administered land readily available, easily accessible, and up-to-date to inform decisions about flood control land use applications.

Te Tiriti o Waitangi

As set out in Te Tiriti Compass, Council is committed to developing effective and meaningful relationships with mana whenua and upholding Te Tiriti o Waitangi. Te Tiriti Compass provides an articles-based framework for Council to meet its responsibilities as a Tiriti partner. That framework will be applied in all decision-making processes under this policy.

Sustainability and environmental considerations

Council is committed to ensuring that all activities on flood control land contributes positively to our environmental and sustainability objectives. Activities must demonstrate resource efficiency, enhance biodiversity, minimise energy consumption, and incorporate robust measures for erosion and sediment control. Proposals will be assessed based on their environmental impact, sustainability of resource use, and alignment with regional conservation goals. Continuous monitoring will ensure compliance with these standards, supporting Council's overarching commitment to sustainable land management and conservation practices.

Climate change implications and future proofing

Council recognises that the frequency and severity of flooding is projected to increase due to climate change. All applications to use flood control land will be assessed through a climate resilience lens, including consideration of long-term risks, adaptive capacity, and alignment with Council's broader climate adaptation strategy. Where applicable, Council will apply adaptive planning principles, use current climate and flood hazard data to assess infrastructure integrity and cumulative risk, and may limit the duration or nature of activities proposed in high-risk areas to protect both public safety and asset resilience.

TE HOROPAKI KAUPAPA ME TE TURE | LEGISLATIVE AND POLICY CONTEXT

The following legislation sets out Council's responsibilities for flood control and / or is relevant to decisions on use of Council's flood control land:

- Resource Management Act 1991
- Local Government Act 2002
- Land Drainage Act 1908
- Soil Conservation and Rivers Control Act 1941
- Public Works Act 1981
- Treaty settlement legislation / *Ngā Whakaaetanga ā Ture mō Te Tairāwhiti Statutory Acknowledgements*

In addition to this policy, other Council policies, strategies and plans may also be relevant for decisions on use of Council's flood control land:

Plans	Policies	Strategies
Long Term Plan Annual Plan Tairāwhiti 2025 (spatial plan) Tairāwhiti Resource Management Plan Catchment management plans Regional Land Transport Plan and Regional Public Transport Plan Asset management plans Township plans Reserve management plans	Te Tiriti Compass Tairāwhiti Piritahi Policy Significance and Engagement Policy Risk Management Framework Fees and Charges Schedule Liability Management Policy Revenue and Financing Policy	Future Development Strategy Financial Strategy Infrastructure Strategy

NGĀ KŌRERO KI TE HUNGA WHAIPĀNGA | STAKEHOLDER ENGAGEMENT

All stakeholder engagement under this policy will be undertaken in accordance with the Significance and Engagement Policy and, as appropriate, the Tairāwhiti Piritahi Policy. Engagement will be initiated as early as practicable during Council's assessment of applications.

Recognising the critical importance of maintaining open and continuous dialogue with our Tiriti partners, this policy incorporates Council's framework for engaging with hapū and iwi (**Appendix 2**). Council also has existing relationships and agreements with hapū and iwi that must be considered and adhered to in decision-making under this policy and monitoring of any agreements made as a result of those decisions. Several waterways in Te Tairāwhiti are covered by statutory acknowledgements through Treaty settlement legislation, as listed in *Ngā Whakaaetanga ā Ture mō Te Tairāwhiti Statutory Acknowledgements*.

Community input is integral to the management of flood control lands. Council will utilise its existing communication channels and feedback mechanisms to ensure that community insights and concerns are appropriately incorporated into decision making on applications under this policy.

TE TUKU TONO | MAKING AN APPLICATION

Applications must be made on the prescribed form

Applications to undertake an activity on flood control land must be made by an applicant or its authorised representative on the prescribed form. Application forms will be available on Council's website or at its offices.

The application form will require the applicant to provide information about:

- The type of activity
- The location of the activity and why use of flood control land is required to enable the activity
- The proposed duration of the activity
- The measures the applicant proposes to put in place to protect the stopbank or other flood control asset on the land from potential damage
- Where relevant, Council may provide applicants with standard design guidance (for example, the typical GDC design for water-take pipelines over stopbanks) to support early alignment with preferred engineering solutions and reduce design risk and assessment time.
- Name of responsible individual for the application (not a company/trust): A single authorised person who is accountable for all licence obligations.

General enquiries about this policy and incomplete applications will not be treated by Council as applications. ***Incomplete application forms will not be accepted or processed.***

Application forms must be complete. Where an application form is incomplete, the applicant will be notified by Council, advised of the incomplete or missing information, and requested to complete the application before it can be assessed.

Council will acknowledge receipt of an application within 5 working days

Council will acknowledge the receipt of an application within 5 working days after receiving an application and application fee.

Applications must be accompanied by the application fee deposit

Application fees are payable in respect of all applications under this policy. Applications will not be treated as complete until payment of an application fee deposit is received by Council, or evidence of payment is provided. The deposit is non-refundable.

The deposit amount is published in *Ngā utu me ngā utu whakauru | Fees and charges* (Council's fees and charges schedule) available on Council's website.

Privacy

Council is subject to the Privacy Act 2020 and the Local Government Official Information and Meetings Act 1987, which govern how personal information is collected, used, stored and accessed. Council will adhere to these Acts in managing the information shared with Council through the application process.

TE AROTAKENGA TONO | ASSESSMENT OF APPLICATIONS

Initial assessment and application fees

The types of applications made under this policy will vary, as will the proposed activity and the level of risk and/or mitigation required to ensure that the stopbank asset is not impacted. In some cases it will be appropriate to consult with stakeholders, requiring a greater level of input, time and assessment required by Council.

Once a complete application has been received, Council staff will undertake an initial assessment of the application to assess the complexity of the application and calculate the application fee. Calculation of application fees will be as prescribed in *Ngā utu me ngā utu whakauru | Fees and charges*.

On completion of Council's initial assessment, the applicant will be advised of the application fee, how it was calculated, and the amount remaining to be paid (i.e. the total application fee less the deposit paid). Council will begin its full assessment of the application on payment of the application fee.

If an applicant withdraws their application prior to paying the application fee, the deposit will not be refunded. If an applicant withdraws their application at any time after Council's full assessment begins, the application fee (including the deposit) will not be refunded.

Council may remit or waive the application fee, in full or in part, for charitable, recreational, not-for-profit or fundraising activities where there is a demonstrated public benefit. Delegation

to waive or remit fees sits with the Regional Rivers Manager, or Director of Community Lifelines or another officer as delegated by the Chief Executive.

Full assessment

Council officers will undertake full assessment of the application against the criteria set out below. Engagement with hapū / iwi and other parties in line with Council's Significance and Engagement Policy and other relevant policies and agreements will be initiated as early as practicable during the assessment process.

An economic impact assessment may be undertaken for activities with significant potential community or regional effects, ensuring comprehensive understanding and management of economic implications related to the use of flood control lands. A cultural impact assessment may be undertaken if the stopbank or other flood control land is used for cultural purposes or is in a culturally significant location. If an economic and / or cultural impact assessments are required, this will be reflected in the fees charged to the applicant.

Assessment criteria

Council officers will assess the application against the following criteria:

- The type and nature of activity and any risks that this may have on the structural integrity of the flood control land and assets thereon, and the potential effect on the flood carrying capacity. This includes consideration of the scale and purpose of the activity, noting that pipelines supporting commercial water supply operations may present higher operational and structural risks than private, small-scale connections.
- The legislative requirement to protect the primary purpose for which the land is held (e.g. stopbanks or flood protection reasons).
- Any other impacts of the activity, including economic and cultural impacts. This includes the effect of a proposed activity on existing authorised uses, for example, temporary impacts to grazing activities during pipeline installation.
- The measures proposed by the applicant to mitigate any risks associated with the proposed activity.
- Whether terms and conditions in an agreement can reasonably manage and mitigate any risks, and whether any residual risk to Council and the stopbank or other asset is acceptable.
- The benefits to Council and / or the community in approving the activity.
- The result of consultation, where relevant.
- The terms, conditions, fees and charges, that may be relevant to manage an activity's effects on the stopbank. Whether the activity requires resource consent or other statutory approvals. A licence will not be issued until those approvals are secured.

Consultation

As part of its assessment process, Council may, at its discretion or as required by relevant legislation and Council's Significance and Engagement Policy, consult with hapū / iwi on matters of interest or cultural significance and / or other parties potentially affected by the proposed activity.

Council will inform the applicant of its intention to consult with other parties and on what matters of the application. Unless otherwise agreed, Council will endeavour to complete consultation within 20 working days of the applicant being informed.

Ongoing fees

Ongoing fees will be set through *Ngā utu me ngā utu whakauru | Fees and Charges* and will reflect the scale, purpose, and intensity of the authorised activity. This enables Council to distinguish between low-impact private uses and higher-impact or commercial operations that place greater demands on flood protection land and assets. These fees relate solely to the occupation of flood protection land; any associated water-take activity remains subject to the Resource Management Act 1991 and its separate consent requirements.

Ongoing fees will be included in the terms of the licence or easement, with provision for review where appropriate. Council may remit or waive ongoing fees, in full or in part, for charitable, recreational, not-for-profit, or fundraising activities where there is a demonstrated public benefit, including cases where an activity reduces maintenance costs for Council. Delegation to waive or remit fees sits with the Regional Rivers Manager, the Lifelines Director, or another officer as delegated by the Chief Executive.

Notification of Council's decision

Council will make a decision on the application and notify the applicant in writing within 5 working days of making the decision. The reasons for the decision will be documented and signed by a Council officer with the delegated authority.

If the application is approved, a copy of the appropriate agreement including all relevant terms and conditions as described in the decision report will be provided to the applicant to review, sign and returned to Council to countersign.

Review of Council decision

Council Officers with delegated authority are the decision-makers on applications under this policy. Where an applicant disagrees with a decision, they may request a review by a senior delegated officer. Where unresolved, the matter may be escalated to the appropriate Manager or Chief Executive. These internal review steps are in addition to any statutory appeal rights.

NGĀ WHAKAAETANGA ME NGĀ WHAKARITENGA | AGREEMENTS AND TERMS

All agreements made under this policy will be legally binding between Council and the applicant(s).

Agreements will be drafted by Council's legal advisors based on instructions from the asset manager Regional Rivers Manager, the Director of Community Lifelines with terms that it deems appropriate and commensurate with the type and duration of the activity. The terms must uphold the policy objective and principles and be fit for purpose.

The terms of the agreement may relate to or include, but are not limited to, the following:

- The location, duration and extent of the activity
- Conditions to manage the effects of the activity
- Council inspections and regular monitoring and enforcement provisions
- Maintenance provisions
- Ongoing fees
- Termination provisions, including final inspections and reinstatement requirements

Council will determine at its discretion the most suitable form of tenure, and legislation, under which to grant a particular use. Council will not contemplate granting a lease because leases infer rights of exclusive use and possession, which is inconsistent with the primary purpose of flood control land.

The types of agreements Council expects to be created under this policy include, but are not limited to:

Guarantor Requirements

Council may require a personal or corporate guarantor for certain applications where additional financial assurance is considered necessary. This requirement will be assessed on a case-by-case basis, informed by advice from Council's legal advisors and the risk profile, structure, and financial capacity of the applicant (for example, entities with limited asset backing or high-risk operational footprints). Clear direction on guarantor requirements will be provided to the processing officer through the internal legal review process.

Licences

Licences do not give exclusive rights of possession. Where a licence is, in substance, a lease, it will be treated as a lease at law. To ensure that Council's flood protection land is not construed as surplus to requirements, licences will generally be granted for short terms.

Licences will typically be granted for a term of up to three years. A right of renewal may be offered at Council's discretion, provided that:

- the renewed term would not alter the non-exclusive nature of the arrangement
- the activity continues to be consistent with the purpose of flood protection land

- the land has not been required for operational or strategic purposes
- the licence holder has complied with all conditions of the agreement
- re-assessment of risks, maintenance impacts, and any overlapping uses continues to support renewal

Where offered, the right of renewal will generally be for one further term of up to three years.

Licences may be transferred or varied upon application to Council and subject to approval, provided the original purpose and conditions of use remain materially unchanged. Variations or transfers must be documented formally and may incur additional administrative or legal fees.

TE WHAKAHAERE PĀRONGO INFORMATION MANAGEMENT

Council will hold and maintain a record of all authorised activities and associated agreements.

Council will record all licences and agreements in the appropriate information management systems to ensure visibility and operational alignment. Internal reminders or system notifications will be used, where appropriate, to manage key dates such as renewals and terminations. Fees and charges will be entered into Council's finance system to support accurate invoicing and review.

TE WHAKAHAERE TŪRARU | RISK MANAGEMENT

To enhance the policy's efficacy and ensure the safeguarding of flood control assets, activities on flood control lands are subject to Council's Risk Management Framework. The framework outlines systematic procedures for identification, assessment and mitigation of risks.

TE AROTAKENGA KAUPAPA | POLICY REVIEW

Council will review this policy every five years or as otherwise required by the Chief Executive, or other officer with delegated authority.

The scope of future reviews of this policy is at Council's discretion. A review will most commonly be required take account of changes to:

- Council policies and strategic plans
- Capital works and maintenance programmes for the flood control network
- Council's finance and funding policy, and associated fees and charges
- Any other matters Council considers relevant to the application of this policy

Given the potential impacts of climate change on flood risks, the policy will also be regularly updated based on new scientific data, modelling projections, or significant changes in

regional flood risk profiles. These updates will ensure ongoing relevance and alignment with best available science.

ĀPITIHANGA 1 | Appendix 1: Schedule of flood control assets and land

This policy applies to Council's flood control land and the assets listed in this schedule. Council may amend or update the schedule at its discretion, and such updates do not require a review of the policy.

Scheme	Asset	Quantity
Waipaoa River Flood Control Scheme	Stopbanks	63.7km
	Pipes	2,224m
	Floodgates	71
Te Karaka Flood Control Scheme	Stopbanks	4.3km
	Pipes	589m
Taruheru River Improvement Scheme	Stopbanks	1.6km
	Pipes	170m
Te Araroa Flood Control Scheme	Stopbanks	48m
River erosion control schemes	Stopbanks	6.0km
	Pipes	724m
Coastal Protection	Erosion protection structures at Wainui Beach	2.1km

ĀPITIHANGA 2 | Appendix 2: Māori engagement priorities table

PRIORITY	HOW WE RECOGNISE EXTENT		ENGAGEMENT LOOKS LIKE	TE MATAPIHI FORM REQUIRED?	WHAT GOOD DECISION-MAKING LOOKS LIKE	REAL LIFE EXAMPLES
	THE EXTENT OF INPUT REQUIRED FROM MANA WHENUA TO MAKE A ROBUST DECISION	THE EXTENT MANA WHENUA INTERESTS WILL BE AFFECTED				
5	MAHITAHĀ: PARTNERSHIP	MANA WHENUA INTERESTS ARE CENTRAL & OTHER INTERESTS ARE MINIMAL	SUPPORT OR ASSIST	YES	MANA WHENUA LEAD DECISION MAKING AND RESPONSIBILITIES WITH COUNCIL IN SUPPORT	- LOCAL LEADERSHIP FORUM TERMS OF REFERENCE - SETTLEMENT ENTITIES CONDITIONS - LEGISLATED ENTITIES CONDITIONS
4		MANA WHENUA INTERESTS ARE SIGNIFICANTLY AFFECTED WHILE OTHER INTERESTS EXIST	PARTNERSHIP	YES	MANA WHENUA AND COUNCIL FORMALLY WORK IN PARTNERSHIP TO MEET OR ACHIEVE MUTUAL INTERESTS.	- MANA WHAKAHONO Ā ROHE REQUIREMENTS - MOUs WORKING CONDITIONS - RELATIONSHIP AGREEMENT CONDITIONS
3	HUITAHI: COLLABORATE	MANA WHENUA INTERESTS EXIST BUT THERE ARE ALSO OTHER INTERESTS TO TAKE INTO ACCOUNT	COLLABORATE	YES	MANA WHENUA AND COUNCIL DISCUSS REASONABLE SOLUTIONS TO ENSURE INTERESTS ARE CONSIDERED IN THE FINAL OUTCOMES.	- MUST MEET RESOURCE CONSENT REQUIREMENTS - IWI MANAGEMENT PLAN CONDITIONS
2	WHAI KUPU: INFORM	SPECIFIC MANA WHENUA INTERESTS ARE AFFECTED	CONSULT	NO	MANA WHENUA FEEDBACK IS SOUGHT TO INFLUENCE DECISION MAKING HOWEVER COUNCIL MAKES THE FINAL DECISION AND IS RESPONSIBLE FOR ALL COSTS	GENERAL INFORMATION ABOUT UPGRADES THAT DO NOT REQUIRE RESOURCE CONSENT.
1		MANA WHENUA INTERESTS ARE LIMITED OR NOT AFFECTED IN ANY SPECIAL WAY	INFORM OR NOTIFY	NO	COUNCIL ADVISES MANA WHENUA ABOUT CALENDAR OF EVENTS, OPPORTUNITIES OR UPDATES OR GENERAL MAINTENANCE	THE GENERAL MAINTENANCE OF SERVICES THE COUNCIL IS RESPONSIBLE FOR DELIVERING TO THE GENERAL PUBLIC.



Te Kaunihera o Te Tairāwhiti
GISBORNE
DISTRICT COUNCIL



PO Box 747
Gisborne 4040 NZ



15 Fitzherbert Street Gisborne
Waiapu Road, Te Puia Springs



06 867 2049
0800 653 800



service@gdc.govt.nz



www.gdc.govt.nz



@Gisborne DC



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