

DISTRICT-WIDE MATTERS

ER – Esplanade Reserves

Introduction

Access to lakes, rivers and the sea is highly-valued by New Zealanders. The “esplanade” areas along the edge of these water bodies are very important, both for their natural values and for recreation. This is reflected in Section 6 of *the Act* which requires the District Plan to recognise and provide for:

- a. The preservation of the natural character of the coastal *environment*, (including the coastal marine area), wetlands and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use and development, and
- b. The maintenance and enhancement of public access to and along the coastal marine area, lakes and rivers.”

Management of the land near the water’s edge is sometimes called “riparian management.” The “coastal *environment*” of the Manawatū District can be thought of as the land within 4km of the ocean, and the “coastal marine area” referred to above is the area below mean high water springs. (CE – Coastal *Environment*).

The reasons for esplanade management (and in particular for having *esplanade reserves* and strips) are set out in Section 229 of *the Act*, namely:

- a. To contribute to the protection of conservation values, by:
 - i. Maintaining or enhancing the natural functioning of the adjacent sea, river or lake, or
 - ii. Maintaining or enhancing water quality, or
 - iii. Maintaining or enhancing aquatic habitats, or
 - iv. Protecting the natural values associated with the *esplanade reserve* or esplanade strip,
 - v. Mitigating natural hazards, or
- b. To enable public access to or along any sea, river or lake, or

- c. To enable public recreational use of the *esplanade reserve* or esplanade strip and adjacent sea, river or lake, where the use is compatible with conservation values.”

Objectives

ER-01	To maintain and enhance public access to and along the District’s coastline and rivers (Refer also HH-O5, CE-O2).
ER-02	To maintain and enhance opportunities for public recreational use of the coastline and rivers (Refer also HH-O5, ASW-O1, CE-O2).
ER-03	To preserve the natural character of the coast, <i>wetlands</i> , lakes and rivers and their margins (Refer also HH-O1, HH-O5, and CE-O1).[PC65]
ER-04	To protect areas of significant <i>indigenous vegetation</i> , <i>wetlands</i> and aquatic habitats (Refer also HH-O1, HH-O5, SUB-O11). [PC65]
ER-05	To promote riparian management practices which improve the quality and natural functions of adjacent water bodies. (Refer also GEN-O1, SUB-O11, and EI-O7)
ER-06	To maintain the efficiency of river control and drainage schemes (Refer also INF-O1, INF-O2).

Policies

ER-P1	To be pro-active in establishing new public access, rather than only taking the opportunities which arise when properties are developed or subdivided.
ER-P2	To use esplanade management to protect the significant conservation values and to enhance the water quality of Lake Kaikokopu, Lake Omanuka, Karere Lagoon and Hamilton’s Bend Lagoon. Public access to these places will not be sought.

ER-P3	To protect the conservation values of those riparian margins which have a high value due to areas of <i>indigenous vegetation</i> adjoining the water's edge, including the Mangaone West Stream between Te Rakehou Rd and Awahuri Rd.
ER-P4	To seek better public access to the coast and the District's major rivers, namely the Rangitikei, Manawatū, and Oroua Rivers.
ER-P5	To work toward the establishment of walkways along the following stretches of river:
ER-P5.1	Mangaone Stream between Bunnythorpe and Palmerston North.
ER-P5.2	Makino Stream - between Reids Line West and Port Street, between Beattie Street and Denbigh Street and between Rata Street and Kitchener Park.
ER-P5.3	Kiwitea Stream between Reids Line West and the Oroua River.
ER-P5.4	Oroua River (right bank) between the Kiwitea Stream confluence and the Feilding Sewage Treatment Plant.
ER-P6	To improve public access for recreation to those parts of the following streams which are relatively close to formed <i>road</i> access or reserves:
ER-P6.1	Pohangina River
ER-P6.2	Mangoira, Makiekie and Mangahuia Streams
ER-P6.3	Waituna Stream - Rangitikei confluence to Waituna West.
ER-P6.4	Mangawharariki River.
ER-P6.5	Kiwitea Stream between Mangamako <i>Road</i> and Reids Line West
ER-P7	To preserve future opportunities for <i>esplanade reserves</i> or strips to be established along the edge of rivers and lakes.

ER-P8	To maintain the level of access provided by existing public roads along the water's edge.
ER-P9	To take public safety, the presence of other legal access, land topography, accessibility, and proximity of dwellings into account when deciding whether to require a particular <i>esplanade reserve</i> or strip for public access.
ER-P10	To require esplanade management measures (including the creation of esplanade strips) as a condition of land use consent if needed to mitigate a potential adverse <i>effect</i> upon the waterway.
ER-P11	To compensate subdividers for the loss of land vested as <i>esplanade reserves</i> and for the loss of use of land subject to esplanade strips, irrespective of the size of the allotment concerned.
ER-P12	To maintain access along the edge of rivers and Drainage Scheme drains for stopbank or drain maintenance.

Circumstances

ESPLANADE RESERVES

Circumstances (CR)

ER-CR1	<i>Council will not require an esplanade reserve to be set aside from land being subdivided or roads being stopped, unless:</i>	
	ER-CR1.1	The land is located within Feilding township and adjoins the bank of the Oroua River or Kiwitea Stream.
	ER-CR1.2	The land adjoins the Makino Stream between Beattie and Denbigh Streets, and lies within the land comprised in Land ID 7032, or
	ER-CR1.3	The land adjoins the coast.

ESPLANADE STRIPS

Circumstances (CR)

ER-CR2	<i>An esplanade strip for public access purposes will be required (subject to ER-ST1 to ER-ST6) over land being subdivided or roads being stopped which adjoin:</i>	
	ER-CR2.1	The Rangitikei or Manawatū Rivers.
	ER-CR2.2	The Oroua River downstream of the Ruahine Forest Park.
	ER-CR2.3	The Mangaone Stream downstream of the Main Trunk Railway.
	ER-CR2.4	The Kiwitea Stream between Reids Line West and the Oroua River.
	ER-CR2.5	The Makino Stream, between Reids Line West and Port Street, or between Rata Street and Kitchener Park.

ER-CR3	An <i>esplanade strip</i> for public access purposes up to 1km from any existing <i>road</i> access point or reserve will be required (subject to ER-ST1 to ER-ST6.4) over land being subdivided or <i>roads</i> being stopped which adjoin:
	ER-CR3.1 The Pohangina River.
	ER-CR3.2 The Mangoira, Makiekie or Mangahuia Streams.
	ER-CR3.3 The Waituna Stream downstream of SH 54.
	ER-CR3.4 The Kiwitea Stream between Mangamako <i>Road</i> and Reids Line West.
	ER-CR3.5 The Mangawharariki River.
ER-CR4	<i>Council</i> may require an <i>esplanade strip</i> to be created for water quality and/or conservation purposes over land being subdivided or roads being stopped which adjoin: (The <i>esplanade strip</i> documents for these lakes shall exclude public access).
	ER-CR4.1 Lake Kaikokopu.
	ER-CR4.2 Lake Omanuka.
	ER-CR4.3 Karere Lagoon.
	ER-CR4.4 Hamilton’s Bend Lagoon.
ER-CR5	<i>Council</i> may require an <i>esplanade strip</i> to be created for conservation purposes over land being subdivided or <i>roads</i> being stopped which:
	ER-CR5.1 Include <i>indigenous vegetation</i> which is regarded as significant in terms of the criteria in HH-APP3.
	ER-CR5.2 Adjoin the Mangaone West Stream between Te Rakehou <i>Road</i> and Awahuri <i>Road</i> , unless that area is protected by a <i>legal covenant</i> .
ER-CR6	The provision of <i>esplanade strips</i> will be subject to the standards and exemptions in ER-ST1 to ER-ST6.

LAND USE CONSENTS

Circumstances (CR)	
ER-CR7	When considering applications for land use consent, <i>Council</i> may require an <i>esplanade strip</i> for water quality and/or conservation purposes to be created, if the proposal is likely to have a significant adverse <i>effect</i> upon:
	ER-CR7.1 Water quality,
	ER-CR7.2 The natural functioning of an adjacent river or lake, or
	ER-CR7.3 The natural values associated with the riparian margin of any adjacent river or lake, and if an <i>esplanade strip</i> is necessary to mitigate those adverse <i>effects</i> .

Width of Reserves and Strips

STANDARDS AND EXEMPTIONS	
ER-ST1	<i>Esplanade reserves</i> will be 10 metres wide if adjoining the portion of the Makino Stream specified in ER-CR1 above, and 20 metres wide if adjoining other water bodies.
ER-ST2	<i>Esplanade strips</i> for public access purposes will be 10 metres wide, unless a greater width is needed to provide a workable walkway.
ER-ST3	<i>Esplanade strips</i> for water quality and/or conservation purposes are to be 20 metres wide.
ER-ST4	The standard widths in ER-ST1 or ER-ST2 above may be reduced in circumstances where:
ER-ST4.1	Other parts of the reserve or strip are correspondingly wider,
ER-ST4.2	A full width reserve or strip would pass too close to an existing <i>dwelling</i> , or
ER-ST4.3	The objectives of the reserve or strip can still be met by a reduced width.
ER-ST5	<i>Esplanade strips</i> for public access may be dispensed with altogether in cases where <i>Council</i> is satisfied that:
ER-ST5.1	Adequate legal access to the water body is provided by a legal <i>road</i> (formed or not)
ER-ST5.2	Access along the other side of the water body is more practical, and access is not needed on both sides
ER-ST5.3	Topography along the strip makes access unworkable
ER-ST5.4	The <i>site</i> of the strip is unlikely to ever be accessible from a public <i>road</i> , or
ER-ST5.5	The strip would lead to an area of <i>indigenous vegetation</i> or <i>wetland</i> , and public access would be incompatible with the effective protection of that area

	ER-ST5.6	The purpose of the strip can be achieved by other methods, e.g. covenants, or
	ER-ST5.7	Public safety would be compromised by providing a strip.
ER-ST6	<i>Esplanade strips</i> for water quality and /or conservation purposes may be dispensed with wholly or partially. Any application to reduce or waive an <i>esplanade strip</i> will be assessed having regard to the following matters:	
	ER-ST6.1	The extent to which the natural functioning of the water body, water quality, and land and water-based habitats will be affected by any reduction in the width, size or non-provision of the strip,
	ER-ST6.2	The degree of protection of the natural values associated with the strip that will remain,
	ER-ST6.3	The degree to which the purpose of the strip can be, or is already, achieved by other mechanisms, (e.g. covenants, conditions of resource consents, voluntary methods) and,
	ER-ST6.4	The extent to which the public benefits gained with respect to the strip justify the cost of acquiring and maintaining the strip, while recognising that important benefits in terms of improved water quality, habitat and access cannot readily be expressed in monetary terms.

Explanation

The above objectives aim to recognise and provide for the matters of national importance quoted above. The first two objectives do not mention lakes. This is because the lakes of over 8ha within the District (Pukepuke Lagoon, Kaikokopu, Omanuka, Karere Lagoon and Hamilton’s Bend Lagoon) are important bird habitats. Opening up general public access could conflict with their conservation values. Public access could also have a detrimental *effect* on parts of the coast and on certain rivers and *indigenous forest* areas which are important wildlife habitats.

The *Act* provides special scope for new public access points to be secured when a property is subdivided or developed. Progress in establishing riverside walkways would however be

extremely slow if *Council* just waited for the adjoining properties to be subdivided. Some properties may never be subdivided. This means that *Council* needs to actively negotiate the acquisition of access, especially where one or two links are needed to complete a desired walkway.

Council aims to work toward better public access to the coast and the full length of the Rangitikei, Oroua and Manawatū rivers. The aim is also to establish walkways along the specific waterways listed in ER-P5 which adjoin Feilding and Palmerston North and where future demand for walking opportunities is likely to be strongest. ER-P6 aims to provide extra options on other streams for casual recreation such as picnicking, in spots which are readily accessible from roads, i.e. up to 1km from bridges and other access points.

The Department of Conservation and the *Regional Council* also have responsibilities (and greater expertise) in protecting conservation values and water quality. The *Regional Council* has prepared a land and riparian management strategy which adopts a nonregulatory approach to riparian management. This Plan aims to complement Department of Conservation and *Regional Council* actions by recognising the natural values associated with riparian areas, by taking these values into account when managing development and subdivision, and by providing direct protection to some areas. (HH-O1).

Esplanade management has a number of significant benefits. Riparian vegetation helps shade the water, providing better water temperatures for aquatic life. It can act as a breeding ground for fish and a nesting area for birds. It helps delay stormwater runoff, thereby reducing the severity of flood events, and helps to filter out excess nutrients and chemicals in runoff from adjacent land. Strips of vegetation along rivers can provide “corridors” for seasonal movement of birds, as well as enhancing amenity and landscape values. Benefits to landowners include shelter for stock, less soil erosion, and a possible alternative income source from trees. The public can obtain better recreational opportunities from more attractive waterways with healthier ecosystems.

The influence of riparian vegetation on in-stream ecological values and improved water quality is greatest in small streams because of the greater proportion of edge vegetation to water area. Proactive riparian management along small streams results in cumulative water quality benefits in main stem rivers. Riparian management is most effective when carried out on a comprehensive catchment-wide basis.

The extensive network of drainage channels on the plains collecting runoff from farmland often has little riparian vegetation through which to filter runoff. Ideally water quality in main rivers could be improved through sensitive farm management practices alongside drainage channels.

River user groups have supported the idea of *Council* adopting an information role. This involves identifying where legal access to water bodies exists now (e.g. paper *road* access), telling the public and user groups about it, and perhaps signposting or providing poled routes.

(Landowner liaison is needed before any signposts go up). *Council* has already mapped all legal *road* access and existing reserves along the District’s rivers. These maps are available for people to consult at the *Council* office. A necessary adjunct to improving access is then to help educate people about the duty of care which results from having the privilege of access. This will include providing appropriate *signs*, e.g. to tell people that dogs on an esplanade strip must be kept on a lead.

ER-O6 recognises the importance of river control and drainage works to the District. Such works could be compromised if *buildings* were erected so close to waterways that they obstructed access for machinery engaged in drain clearing or stop-bank maintenance. *Buildings* can also limit *Council’s* opportunities to later acquire a workable esplanade strip or *esplanade reserve* next to a water body. As a result, the Plan includes *building* setback distances from waterways. In some cases there will also be *building* restrictions because of the flood risk arising from the waterway (see the NH – Natural Hazards chapter). The *Regional Council* has controls on people *building* close to or undermining the structural integrity of stop-banks.

ESPLANADE RESERVES AND STRIPS

These are tools created by *the Act* which the Plan can use to achieve Objectives ER-O1 to ER-O6.

Esplanade reserves are strips of *Council* reserve land, usually 20 metres wide, located along the edge of rivers, lakes and the sea. *The Act* defines “rivers” as those which have a bed with an average width of more than 3 metres at “annual fullest flow without overtopping its bank”. “Lakes” are those which have a bed of over 8ha in area. *Esplanade reserves* are usually created at the time of subdivision, and are a type of financial contribution. (Refer to the FIN – Financial Contributions chapter).

This Plan specifies which water bodies *esplanade reserves* will apply to, and the width of the reserve which will be sought. (Refer ER-R1 and ER-ST1 to ER-ST6). *Esplanade reserves* will be required irrespective of the size of the allotment being created.

With allotments of 4ha and over, the landowner must be compensated under *the Act* for the value of the land taken as a reserve. It is unfair to compensate people who create 4.1ha blocks but not those who create 3.9ha blocks. *Council* will therefore pay compensation irrespective of the size of the allotment. Compensation will include any extra fencing and survey costs.

Esplanade reserves and strips can be acquired by direct negotiation or purchase at any time, whether a subdivision is proposed or not. They can also be transferred by mutual agreement to the *Regional Council* or the Department of Conservation.

Esplanade strips also involve pieces of land of defined width (usually 20m) along the water’s edge. Instead of being transferred to the *Council*, though, *esplanade strip* land remains in the owner’s possession. A legal agreement is drawn up, obliging the landowner to allow public

access or recreation and/or protect conservation values on the strip. This agreement is registered on the land title concerned and binds future landowners. *The Act* prescribes standard conditions applying to use of all *esplanade strips* including bans on vandalism and stock interference. Different sets of requirements can apply to strips, depending on whether they are created for protection of conservation values, for recreation, for public access, or for a mixture of these things. For example public access can be banned from conservation strips.

Personal safety and security can be a concern for landowners if public access is created along waterways through their properties. On the unformed and less-used walkways much of this concern can be overcome by the landowner being able to “keep tabs” on who is using the strips across their property. *Council’s* standard *esplanade strip* agreement for public access (see Figure 24) therefore contains a condition that all persons using a strip which does not contain a walkway formed or marked by the *Council* must advise the landowner concerned prior to use. The strip also must not be used during the hours of darkness.

Any person breaching the conditions of an *esplanade strip* (e.g. by vandalism) commits an offence under *the Act*. It is also possible to close *esplanade strips* for specified reasons and times.

Esplanade strips do not need to be surveyed and move with any changes of river direction to maintain practical public access. (If rivers shift, fixed *esplanade reserves* can end up in the middle of the river bed!) This Plan lists the water bodies along which strips will be sought (Refer ER-CR1 to ER-CR7.3). If *Council* requires strips on allotments of 4ha and over, compensation for the loss of use of land is payable under the *Act*. Any additional survey and fencing costs will also enter into the compensation calculations. (*Esplanade strips* for water quality purposes for example need to be fenced to keep out stock in order to grow a vegetation buffer).

Weed control on *esplanade strips* will be up to the landowner concerned, except where *Council* forms a walkway along the strip. In such cases weed control by the *Council* will be part of maintaining the walkway to an appropriate standard for people to use and enjoy.

FIG.4 – STANDARD CONDITIONS OF ESPLANADE STRIP FOR PUBLIC ACCESS

The “Esplanade Strip Instrument” which creates the strip is registered on land titles and contains a number of standard conditions as follows:

1. The following acts are prohibited on the strip:
 - a) Wilfully endangering, disturbing, or annoying any lawful user of the strip (including the owner or occupier of the strip):
 - b) Wilfully damaging or interfering with any structure adjoining or on the land, including any building, fence, gate, stile, marker, bridge or notice:
 - c) Wilfully interfering with or disturbing any livestock lawfully permitted on the strip.

The prohibitions referred to in paragraphs (b) and (c) above do not apply to the owner or occupier of the strip.

2. The following further acts are prohibited on the strip:
 - a) Lighting any fire:
 - b) Carrying any firearm:
 - c) Discharging or shooting any firearm:
 - d) Camping:
 - e) Bringing any dog onto the strip, except on a lead.
 - f) Bringing any horse onto the strip, except with the permission of the owner or occupier of the strip)
 - g) Taking any vehicle onto, or driving or having any charge or control of any vehicle on, the land (whether the vehicle is motorised or non-motorised):
 - h) Wilfully damaging or removing any plant (unless acting in accordance with the Noxious Plants Act 1978 or the Biosecurity Act 1993):
 - i) Laying any poison or setting any snare or trap (unless acting in accordance with the Agricultural Pest Destruction Act 1967 or the Biosecurity Act 1993).
 - j) Being on the land during the hours of darkness.

The prohibitions referred to paragraphs a) to j) above do not apply to the owner or occupier of the strip, the grantee or the Manawatu-Wanganui Regional Council where the latter is engaged in river control works.

3. Any fencing (including costs) whether temporary or permanent, bounding the strip and the landowner’s other land shall be the responsibility of the landowner. Where Council and the landowner however agree that extra fencing needs to be erected for the safety or convenience of the public using the strip, the costs of this fencing shall be settled by negotiation.
4. Stiles are to be provided where fences cross the strip. The responsibility (including costs) for providing stiles shall be borne by the Council. Council will consult with the landowner prior to undertaking any work on the strip including provision of stiles and walking paths.
5. Any person shall have the right to pass and re-pass over and along the strip between dawn and dusk except as specified in a) and b) below:
 - a) All persons using a strip which does not contain a walkway formed or marked by the Council must advise the landowner concerned prior to use.
 - b) The strip may be closed to public access by the landowner during lambing/calving times and when a hazard to people using the strip is present. Such hazards include tree felling, blasting, earthmoving and pest control operations, land instability, flooding and flood damage

NB: Any person contravening these provisions is committing an offence and is liable to prosecution under the Resource Management Act 1991.

Figure 24 – Excerpt from Council’s standard esplanade strip agreement

Landowners have duties under the Health and Safety in Employment Act 1992 to warn visiting people about hazards on their property. Since these responsibilities will be increased by visitors

using an *esplanade strip*, *Council* should assist in identifying hazards and by providing signage where appropriate. Any hazards resulting from work carried out by the *Council*, such as track clearance, will be *Council's* responsibility.

As with *esplanade reserves*, *Council* will also compensate people who subdivide blocks under 4ha in area. The actual amount of compensation can be determined in each case using normal valuation principles. In determining an amount of compensation, consideration will be given to a number of factors including the value of the parent block before and after the creation of the *esplanade strip*; the use of the land; land improvements; and accessibility. *The Act* provides for an independent valuer to be appointed if *Council* and a landowner cannot agree on the amount of compensation, and for a system of arbitration if either party is dissatisfied with the valuer's assessment.

The Regional Policy Statement signals the *Regional Council's* intention to provide resources for riparian management, where there are water quality benefits. The Department of Conservation has indicated a willingness to assist in situations where the *esplanade reserve* provides access to Department of Conservation land, protects significant natural values, or is protected by a covenant. A co-operative approach to cost sharing, perhaps including user groups, is the best solution.

Esplanade strips are favoured as a tool rather than *esplanade reserves*. The only situation where *esplanade reserves* may be better is when there are plans to physically develop the water's edge as a park or picnic area.

Methods

District Plan Methods

- ER – Esplanade Reserves Chapter
- *Building* setbacks from the water's edge.

Other Methods

- Negotiating access and protection agreements, including access strips *and esplanade strips*.
- Information gathering and publicity on access opportunities.
- Reserves Acquisition.
- Assisting other agencies to implement appropriate riparian management methods and to protect the natural values of the coast, lakes and rivers.

Environmental Results Anticipated

1. No legal public accessways to or along the District’s coastline or rivers are revoked or otherwise blocked off. This includes any access provided by unformed public roads.
2. Additional legal access and opportunities for public recreational use of the water bodies listed in the Plan are provided.
3. Esplanade management requirements are put in place which help to preserve the natural character of the coast, lakes and rivers and their margins and to preserve areas of significant *indigenous vegetation, wetlands* and aquatic habitats.
4. The water quality and natural functions of the District’s water bodies are improved
5. No structures are built in positions which prevent access to rivers and Drainage Scheme drains for stopbank or drain maintenance, or which preclude opportunities for future *esplanade reserves* or strips to be established along the edge of rivers and lakes.

Monitoring and Review Procedures

The procedures to be used will include:

1. Monitoring the demand for public access through public consultation processes.
2. Reporting annually on the length of new *esplanade strips* created for public access and on the outcome of any applications to revoke existing riverside roads and other accessways.
3. Reporting annually on the number and location of riparian areas which are placed under protection due to their natural values.
4. Liaising with the *Regional Council* and Department of Conservation to monitor and report on the quality of the District’s lakes and rivers and the impact of riparian management practices upon water quality and freshwater ecosystems.
5. Responding to complaints about illegal structures which block public access or access for drain clearance.
6. Assessing how effective the selected methods have been in implementing policies related to esplanade management, and changing these methods if necessary.