



YOUR PLAN OUR FUTURE
TIMARU DISTRICT PLAN REVIEW

Activities on the Surface of Water S.32

June 2022



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LAND USE PLAN

Timaru District Council

Section 32 Report

Activities on the Surface

of Water

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1 Activities on the Surface of Water

1.1 Introduction

Councils are required to manage the environmental effects of activities on the surface of rivers and lakes in accordance with s31(1)(e) of the RMA. Currently the District Plan provides for the use of non-motorised craft throughout the district as a permitted activity, and the use of motorised craft for certain uses such as search and rescue as a permitted activity throughout the district. Motorised craft used for commercial activities are a discretionary activity throughout the district, and in general all other use of motorised craft is prohibited, apart from limited provision for motorised activities on the Rangitata River and the Ōpihi River.

An activity that passes across or through the surface of water within an inland waterbody is considered a surface water activity. Access to a wide variety of water bodies across the district results in a range of different surface water activities, including the use of vessels, the use and location of structures, commercial activities, and contact recreation such as fishing and swimming. Any adverse effects generated by these activities will depend on their scale and nature as well as whether the activity occurring can be considered episodic or obtrusive. Even episodic activities, if managed inappropriately, can cause reverse sensitivity or cumulative adverse effects.

This report sets out an overview of the provisions in the operative District Plan that relate to activities on the surface of water, the way in which other District Plans address this topic, key issues that have arisen from the feedback provided by key stakeholders, the proposed options to amend the plan provisions, an evaluation of the extent to which the proposed objective is the most appropriate way to achieve the purpose of the RMA, and an evaluation of the efficiency and effectiveness of the options in respect of achieving the proposed objective.

1.2 Community / Stakeholder / Iwi Engagement

Two phases of engagement with key stakeholders were undertaken in relation to this topic prior to the release of the Draft District Plan, as explained in further detail below:

- Prior to the development of the concept for the topic (August 2019); and
- Following the development of the concept in order to inform the draft provisions (January – February 2020).

August 2019 Engagement

In August 2019 a preliminary review of the current District Plan provisions, relevant legislation, existing resource consent applications, and relevant reports was undertaken to identify the issues in relation to the Activities on the Surface of Water topic.

Following this scoping exercise, it was decided that engagement with key stakeholders would provide beneficial input to inform further work on this topic. Feedback was sought on the following matters from Te Rūnanga o Arowhenua; the Department of Conservation; Fish and Game; Environment Canterbury; and Jet Boating New Zealand (JBNZ):

- Whether there are any specific environmental impacts associated with activities on the surface of water (not just the use of motorised craft) that should be considered in the drafting of the chapter;
- Whether there are any waterbodies or parts of waterbodies within the Timaru District where activities on the surface of water should be limited and/or prevented in order to manage impacts on the environment – e.g., areas of particular cultural or ecological value, particular times of the year; and
- Any technical research or data or other information stakeholders were aware of that may be of relevance to identifying the issues and management options for this topic.

Following this, we identified key stakeholders and sought to find out from them what their thoughts were on the issues, and their views on what the proposed District Plan provisions might look like.

For this consultation we liaised with Te Rūnanga o Arowhenua; Department of Conservation; Jet Boating New Zealand (JBNZ); Fish & Game; Ecologists; and Environment Canterbury. Several key themes came out of the feedback:

Cultural effects

The potential effects of activities and structures on habitat, natural processes, amenity, and cultural values, including mauri, mahika kai, and wāhi tapu/wāhi taonga values.

Ecological effects

The management of the effects of both non-motorised and motorised craft on wildlife and fish in waterbodies, including ground-nesting birds, indigenous fish species and trout and salmon, particularly during breeding seasons. Effects associated with the use of waterbodies, including the spread of Didymo and other pests, and the potential for fuel spills.

Recreational effects

The potential for conflicts between fishing, bird hunting, and motorised craft activities was identified as an issue through feedback provided by Fish & Game.

Other effects (e.g., noise, erosion)

Raised by several stakeholders, these effects include the impact of boat wake on riverbank erosion, noise due to engine operations, and the need for compliance with the Navigational Safety Bylaw.

Location-specific issues

The rivers across the Timaru District are highly valued and each hold special qualities for stakeholders. The rivers specifically identified are the Rangitata River, Ōpihi River, Ōrāri River and Pareora/Pureroa River. Lagoons and estuaries were also identified as possibly needing their own provisions, specifically the Washdyke Lagoons and the Ōpihi River estuary. Analysis on the extent to which the Council has the jurisdiction to manage activities on the surface of these parts of rivers is set out in Section 0 below.

The feedback received was used to develop a more refined concept of the draft provisions. This concept was presented to a Technical Working Group in October 2019. Following this meeting further changes were made to the concept. This concept was circulated to key stakeholders in January 2020, and they were asked to provide their feedback on the draft concept. This round of consultation included the following stakeholders in addition to those who were involved in the previous round of consultation:

- Ashburton District Council.
- Waimate District Council.
- Mackenzie District Council.
- Rangitata Rafts.
- Forest & Bird.

In summary, the key issues that came out of this feedback are:

- JBNZ seeks to refine the conditions for permitted motorised craft use on the rivers proposed, including reducing the minimum river flow required to use the river for motorised craft from 30m³/sec to 20m³/sec.
- Regarding the specified uses of motorised craft being permitted, concerns were raised by Forest & Bird about conflicts with the commercial activities' provisions.
- Concerns regarding the potential effects of activities on fish spawning, although the extent of the potential effects of motorised craft use is debated amongst stakeholders.

- Concerns regarding the potential effects of activities on bird breeding, with conflicting views on the degree of adverse effects that motorised craft use has on indigenous river nesting bird species.
- The role of the Maritime legislation and Navigation Safety Bylaws in setting speed limits and safety rules on the water.
- The need to ensure consistency across districts, where the Rangitata, Pareora/Pureora, Ōpihi and Ōpuha Rivers cross district boundaries.
- Ensure clarity regarding what is and is not permitted, including customary activities.
- Ensure definitions are clear, particularly regarding the landmarks used to limit the range of permitted motorised craft use.
- Numerous suggestions on where motorised craft use might or might not be appropriate e.g., protection of the Ōrāri River gorge and tributaries to the headwaters as it is a High Naturalness Waterbody under the LWRP.

This feedback has been incorporated into the proposed provisions.

Draft District Plan feedback

Additionally, the Council released a draft District Plan for public feedback in October 2020. This was the opportunity for the wider public and all stakeholders to comment on the entire plan or parts of it. In relation to the chapter 'Activities on the Surface of the Water', six feedback points were received.

The feedback can be summarised as follows:

- The objective was supported in that it provides for appropriate management of water surface activities;
- The plan provisions were opposed as nonsense as you can't construct a structure on the surface of the water and often riparian margins are never covered by water so should not be covered by a section about activities on the surface of water;
- There may be intended consequences of the wording of ASW-R8 as this could inadvertently capture water intake structures which should be managed by the regional plan;
- Some of the rules apply to stretches of particular rivers which would be better mapped, than described in words as it currently is;
- The plan includes only includes provisions on spawning areas for trout and salmon. The provisions should be widened to include spawning areas for native fish also.

1.3 Strategic directions

The following strategic directions are particularly relevant to the Activities on the Surface of Water topic:

SD-02 The Natural and Historic Environment

The district's natural and historic environment is managed so that:

- i. the health and wellbeing of the community are recognised as being linked to the natural environment;
- ii. an integrated management approach is adopted that recognises that all parts of the environment are interdependent;
- iii. the natural character of the coastal environment, wetlands and waterbodies is preserved and protected from inappropriate subdivision, use, and development;
- iv. important landscapes and features are protected from inappropriate subdivision, use, and development;
- v. significant indigenous vegetation and significant habitats of indigenous fauna are identified, and their values recognised, protected and where appropriate, enhanced;
- vi. the life-supporting capacity of ecosystems and resources is safeguarded for future generations;

- vii. the important contribution of historic heritage to the district’s character and identity is recognised, and significant heritage and its values are protected from inappropriate subdivision, use, and development.

SD-O5 Mana Whenua

The mana whenua status of Kāti Huirapa is recognised and their historic and contemporary relationship with the district’s land, water bodies and wetlands, coastal environment, and indigenous species is recognised and provided for by ensuring:

- i. mahika kai resources and habitats of indigenous species are sustained and opportunities for their enhancement or restoration are encouraged;
- ii. the health of water body and wetland environments is protected from adverse effects of land use and development;
- iii. the values of identified sites and areas of significance to Kāti Huirapa are recognised and protected;
- iv. Kāti Huirapa retains, and where appropriate is able to enhance access to their sites and areas of significance;
- v. Māori reserve lands can be used by Kāti Huirapa for their intended purposes;
- vi. Kāti Huirapa can carry out customary activities in accordance with tikanga;
- vii. Kāti Huirapa are actively involved in decision making that affects their values and interests in these matters and can exercise their kaitiakitaka responsibilities.

1.4 Problem definition

1.4.1 The efficiency and effectiveness of the Operative Plan

Policy Framework

Part B (3) of the District Plan relates to activities on the surface of water. The issue for this chapter identifies the need to manage the effects of activities on the surface of water in the Timaru District; these effects include:

- the integrity of the surface of water and land banks immediately adjacent;
- the safety of people (other than in boats) recreating in or adjacent to rivers and other water bodies;
- the effects of noise generated by activities on the surface of water on amenity, natural heritage and landscape values;
- the impact of human activities on the natural values of the river environment and consideration of existing activities.

The related objectives seek to provide for a diverse range of activities; whilst ensuring adverse effects on the natural environment are avoided, remedied or mitigated¹ and that the integrity of the surface of water is safeguarded². Supporting policies seek to:

- Encourage safe practices amongst users of the surface of freshwater bodies, and on the riverbanks in the district, that are compatible with recreational, conservation and amenity values;³
- Provide for all types of craft of the surface of water, but limit motorised craft use on the Rangitata River and Opihi River;⁴
- Mitigate the effects of motorised activities on threatened bird species;⁵

¹ Timaru District Plan Part B(3), Issue 3, Objective 1

² Timaru District Plan Part B(3), Issue 3, Objective 2

³ Timaru District Plan Part B(3), Issue 3, Policy 1

⁴ Timaru District Plan Part B(3), Issue 3, Policy 2

⁵ Timaru District Plan Part B(3), Issue 3, Policy 3

- Co-operate with the Canterbury Regional Council in providing equity and effectiveness in inter-district noise management when noise from activities within the CMA affected landward neighbouring land uses.⁶
- Provide for the use of traditional and indigenous watercraft, including Waka and Mōkihi;⁷
- Ensure that accessways to water surfaces by recreational craft are compatible with best environmental practice.⁸

Rule Framework

The District Plan sets out methods for implementing these provisions, in summary the methods include raising public awareness;⁹ using rules and resource consents to reduce conflicts regarding surface water activities and other recreation and conservation values;¹⁰ to coordinate with other organisations who may be better placed to assess where Council intervention may be needed;¹¹ and to prepare documentation for recreational users of surface water in consultation with Kāti Huirapa.¹²

The rules that manage activities on the surface of water are set out in Part D(6) of the District Plan. The rules provide for a range of permitted, discretionary, and prohibited activities.

The following activities are provided for as permitted activities:

- The use of motorised craft throughout the year where it is for search and rescue, scientific research, or resource management monitoring.¹³
- Using non-motorised craft where it is not a commercial activity.¹⁴
- The use of motorised craft by the New Zealand Jet Boat Association for up to two family day events on the Ōpihi River, between the State Highway 1 Bridge and the confluence of the Ōpihi and Opuha/Ōpūaha Rivers within the period of September to February inclusive, conducted between 10:00am and 3:00pm when the river flow measured at the State Highway 1 Bridge exceeds 30 cumecs.¹⁵
- The use of motorised craft on the waters of the estuarine lagoon area of the Ōpihi River at speeds not exceeding 5 knots.¹⁶
- On the Ōpihi River, outside but adjacent to the mainstream of the river, the New Zealand Jet Boat Association can run up to one jet sprint event of up to two days duration in September of any one year.¹⁷
- The use of motorised craft on the Rangitata River at any time, other than above Red Rocks (Turn Again Bend), between March and July, or were used as a part of a commercial activity.¹⁸

Commercial activities involving craft on the surface of the water, other than on the Ōpihi River, are a discretionary activity¹⁹.

⁶ Timaru District Plan Part B(3), Issue 3, Policy 4

⁷ Timaru District Plan Part B(3) Issue 3, Policy 5

⁸ Timaru District Plan Part B(3) Issue 3, Policy 6

⁹ Timaru District Plan Part B(3) Method 1

¹⁰ Timaru District Plan Part B(3) Method 2

¹¹ Timaru District Plan Part B(3) Method 3

¹² Timaru District Plan Part B(3) Method 4

¹³ Timaru District Plan Part D(6) Rule 6.20.2.1 (1)

¹⁴ Timaru District Plan Part D(6) Rule 6.20.2.1 (2)

¹⁵ Timaru District Plan Part D(6) Rule 6.20.2.1 (3) (a)

¹⁶ Timaru District Plan Part D(6) Rule 6.20.2.1 (3) (b)

¹⁷ Timaru District Plan Part D(6) Rule 6.20.2.1 (3) (c)

¹⁸ Timaru District Plan Part D(6) Rule 6.20.2.1 (4)

¹⁹ Timaru District Plan Part D(6) Rule 6.20.2.2 (1)

The establishment and operation of areas for the recreational use of motorised craft on the surface of any water body, other than the Ōpihi and Rangitata Rivers, is a discretionary activity.²⁰

The use of any motorised craft not provided for as a permitted or discretionary activity is prohibited.²¹

There are no specific performance standards that relate to the rules for Activities on the Surface of Water.

1.4.2 Best practice / other District Plan approaches

The table below sets out an overview of the way that a range of other District Plans address the topic of Activities on the Surface of Water. They include the territorial authorities that adjoin the Timaru District (Ashburton, Mackenzie and Waimate Districts), as well as Selwyn, Hurunui and New Plymouth District Plan Districts. Both the Selwyn and New Plymouth, Proposed District Plans were developed under the National Planning Standards.

Plan	Description of Approach
<p>Ashburton District Plan Second generation plan Operative 2014 Ashburton District Council NB it does not give effect to the CRPS as it was only made operative in 2014.</p>	<p>The Ashburton District adjoins Timaru District to the north. The District Plan is a second-generation plan and was made operative in 2014.</p> <p>The Ashburton District Plan spreads the ASW topic across the provisions relating to the Rural and Aquatic Park zones.</p> <p>The Plan contains an objective that relates broadly to the protection of the district’s natural character, including the protection of the coast, lakes, rivers and wetlands from inappropriate use and development. Policy 3.4I requires the location, design and use of structures on the surface of water, or attached to the bank of a water body, to be assessed in relation to effects on natural character. The Aquatic Park zone only relates to activities on Lake Hood, a man-made lake designed to be used for aquatic-based recreation activities including water skiing, sailing, swimming, and has an international rowing course.</p> <p>Related rules manage the following activities:</p> <p>Installing structures or moorings across or through the surface of water.</p> <p>Structures attached to the bank of a waterbody.</p> <p>Motorised craft on lakes other than Lake Camp or Lake Hood.</p> <p>The use of non-motorised craft that do not use oars or paddles on lakes except Lake Hood, Lake Clearwater and Lake Camp.</p> <p>Restrictions on the hours of operation for power boating on Lake Hood.</p>

²⁰ Timaru District Plan Part D(6) Rule 6.20.2.2 (2)

²¹ Timaru District Plan Part D(6) Rule 6.20.2.3

Plan	Description of Approach
<p>Mackenzie District Plan First generation plan Operative 2004 Mackenzie District Council</p>	<p>The Mackenzie District is situated west of the Timaru District. Reviews of specific chapters in the plan have been undertaken where required in the past, and a full review of the plan is scheduled to commence in 2020.</p> <p>Plan Change 19 was made operative in December 2018 and relates to ASW. The ASW topic was identified as an area that needed prioritising due to pressures on the waterbodies in the district, particularly from commercial activities on Lake Pukaki.</p> <p>The provisions have one specific objective in the Rural zone that relates to Activities on or within Waterbodies. The related policies describe the value of waterbodies, and the need to protect specific areas including the operation of commercial activities on Lake Pukaki and in the vicinity of the Church of the Good Shepherd at Lake Tekapo. Compliance with bylaws is also required by the policies, and Policy 8H relates to cross boundary matters and the need to coordinate with adjoining territorial authorities.</p> <p>Related rules manage the following activities:</p> <ul style="list-style-type: none"> • Use of craft for private use, or for search and rescue, civil emergency, scientific, research and monitoring uses. • The use of craft, either motorised or non-motorised, for commercial purposes. • Jetties and boat ramps. • The use of non-motorised craft for recreation. • The use of craft for accommodation on Lake Alexandrina and Lake McGregor. <p>Matters of assessment are:</p> <ul style="list-style-type: none"> • the enjoyment of and experience available in the area; • landscape values; • other recreational opportunities; • public safety and health; • traffic safety and efficiency; • nature conservation and wildlife values; • water quality; • amenity of adjoining occupiers
<p>Waimate District Plan Second generation plan Waimate District Council Operative 2014</p>	<p>The Waimate District adjoins Timaru District to the south. The objective relating to ASW seeks to ensure that recreational activities on the surface of water are carried out in such a way that the potential adverse effects on the environment are minimised. Commercial activities are not specifically noted in the objective.</p> <p>The policies relate to moorings, the need to ensure compliance with the Harbours Act and other relevant regulations, to coordinate with adjoining territorial authorities regarding cross-boundary issues, and to avoid adverse effects on the Wainono Lagoon.</p>

Plan	Description of Approach
	<p>Assessment matters provide discretion for the assessment of moorings, includes reasons for the rules. Related rules manage the following activities:</p> <ul style="list-style-type: none"> • Non-motorised boating only on Boat Arm upstream from Poindestres Road Bridge including Wainono Lagoon. • Moorings. <p>All other activities on the surface of water are permitted. Noise rules manage the noise effects associated with activities on the surface of water.</p> <p>The reasons for the rules are that moorings on waterways require resource consent assessment because of their ability to impact upon landscape, recreational, safety and conservation values associated with a shoreline or shore waters. Use of moored boats for permanent or long-term residence is of concern in relation to other lake and lakeshore users. Such concerns relate to visual impacts, effluent disposal, and loss of public enjoyment of the adjoining lakeshore and waters, to the extent it is considered that such uses should be excluded.</p> <p>Assessment Matters are as follows:</p> <ul style="list-style-type: none"> • The extent to which any motorised craft is compatible with and will not adversely affect significant natural conservation values or wildlife habitat of Dead Arm upstream from Poingdestres Road Bridge, including Wainono Lagoon and its tributaries. • The extent to which the water-based activity will compromise levels of public safety, particularly where conflict between operators may make a reasonable level of public safety impossible or difficult to achieve.
<p>Selwyn Proposed District Plan Notified 2020 Selwyn District Council</p>	<p>The Selwyn District extends from the Southern Alps, including Arthur’s Pass, across to Lake Ellesmere, and includes the townships of Rolleston, Darfield, and several smaller towns. The Selwyn DC notified its proposed plan in October 2020. The PDP contains one specific objective, policy and rule relating to ASW. The objective provides for ASW providing they do not have an adverse effect on ecological values, while the corresponding policy is enabling of both motorised and non-motorised vehicles on the surface of water but seeks to control high country lakes to manage effects on threatened indigenous fauna.</p> <p>The only rule allows use of motorised and non-motorised boats unless it is on one of the named high-country lakes. Search and rescue and emergency vehicles are however permitted. .</p>

Plan	Description of Approach
<p>Hurunui District Plan Second generation plan Operative 2018 Hurunui District Council</p>	<p>The Hurunui District is situated in North Canterbury and covers the area east of the Southern Alps, from the Hundalee Valley to Amberley.</p> <p>The District Plan for the region is a second-generation plan that was made operative in June 2018. ASW is primarily dealt with in Chapter 10 – Freshwater. The Plan objective relating to freshwater seeks to ensure that water and geothermal water resources in the Hurunui District are sustainably managed in a way that allows both land use activities, and activities on the surface of water, to occur whilst the effects of these activities are avoided, remedied, or mitigated.</p> <p>The policy relating to ASW reflects the need to manage these activities in a way that recognises and protects conservation, ecological, commercial, aesthetic, cultural and recreational values of the water resources in the district.</p> <p>The rules manage the following activities as a discretionary activity:</p> <ul style="list-style-type: none"> • Commercial recreational activities on the surface of a water body or within 20m of the bed of any river, lake, or wetland.
<p>New Plymouth Proposed District Plan Notified 2019</p> <p>New Plymouth District Council</p>	<p>The New Plymouth District is situated in the North Island, whilst geographically it is not close to the Canterbury region, the plan is useful to assess as it has been prepared under the National Planning Standards.</p> <p>The PDP contains one objective, being ‘The adverse effects of activities on the surface of the water are avoided, remedied or mitigated’.</p> <p>There are three policies that deal with:</p> <ul style="list-style-type: none"> • Allowing activities, including customary activities by tangata whenua while avoiding, mitigating, or remedying adverse effects on the natural character, ecological, cultural. Amenity and recreational activities; • Ensuring the proposed structures take into account the functional need, the particular characteristics of the location, the ability to maintain public access, the cultural importance and a variety of other factors; • The incorporation of the principles of mātauranga Māori in the design and consideration of the proposal. <p>The rules permit all activities on the surface of the water (excluding structures) and all structures are restricted discretionary, subject to the matters outlined in the policies. The plan does not have any waterbodies or schedule to which particular provisions apply, they are consistent district wide.</p>

1.4.3 Issues identified

Following a review of the Operative Plan provisions that relate to Activities on the Surface of Water, the way in which other District Plans address this issue, and the relevant statutory framework, the following issues need to be addressed:

- Ensure the consideration and inclusion of the cultural values that Te Rūnanga o Arowhenua hold for the waterbodies in the district (note link to the Sites of Significance provisions);
- Consider the inclusion of other waterbodies in the district as the current District Plan only includes the Rangitata River and Ōpihi River;
- Refine the provisions to ensure they are clear and easy to understand rules that set out where motorised craft activities are not permitted to occur;
- Consider whether there are other motorised or non-motorised craft that need to be provided for in the plan provisions in new locations;
- Balancing the management of potential adverse effects on ecological and recreational values, while providing for activities on the surface of water.
- Ensuring that the Plan provisions are focused on s31 functions (s31(e) the control of any actual or potential effects of activities in relation to the surface of water in rivers and lakes), and not functions under s30 or s15 (discharges, water quality), or aquatic ecology (set as regional function through the RPS).

1.5 Statutory and Planning Context

District plans are part of a hierarchy of RMA policy and planning instruments. The RMA prescribes how district plans are to align with other instruments, and this is summarised in the table below:

Statutory document	Alignment requirement for Proposed District Plan	Comment
NZCPS	Give effect to	Implement according to the applicable policy statement's intentions.
NPS/NES		
CRPS		
Regional Coastal Environment Plan	Not be inconsistent with	Are the provisions of the Proposed DP compatible with the provisions of these higher order documents? Do the provisions alter the essential nature or character of what the higher order documents allow or provide for?
Canterbury Land and Water Plan		
Specific management plans and strategies prepared under other legislation	Have regard to	Give genuine attention and thought to the matter As above.
Adjoining district plans: Ashburton District Plan Waimate District Plan Westland District Plan Mackenzie District Plan	Have regard to the extent to which there is a need for consistency	
Iwi Management Plan of Kāti Huirapa Te Whakatau Kaupapa Ngai Tahu Resource Management Strategy for the Canterbury Region	Consider	Address the matter and record.

1.6 Resource Management Act

The general Section 32 report sets out an overview of Part 2 of the RMA. Of relevance to the topic of Activities on the Surface of Water section 31(1)(e) requires the Council, in managing the use, development and protection of natural and physical resources through its District Plan, to be responsible for the control of any actual or potential effects of activities in relation to the surface of water in lakes and rivers.²²

Section 6(a) requires the natural character of the coastal environment, wetlands, lakes and rivers and their margins, and the protection of them from inappropriate use, subdivision, and development. Section 6(c) requires the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna and s6(e) requires the Council to provide for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga.

Section 7 requires the Council to have regard to (a) kaitiakitanga, (b) the efficient use and development of natural and physical resources, (c) the maintenance and enhancement of amenity values, (d) intrinsic values of ecosystems, (f) maintenance and enhancement of the quality of the environment and (h) the protection of the habitat of trout and salmon.

Section 8 requires that the principles of Te Tiriti o Waitangi / the Treaty of Waitangi shall be considered when exercising functions and powers under the RMA. A high-level overview of the way in which these principles have been considered in the preparation of the proposed District Plan.

Rangitata River

The Rangitata River forms the northern boundary of the Timaru District, with the northern half of the river being in the Ashburton District. A statutory acknowledgment exists over the Rangitata River under Schedule 55 of the Ngāi Tahu Settlement Claims Act, which is a formal acknowledgement of the cultural, spiritual, historic, and traditional associations that Te Rūnanga o Ngāi Tahu hold with the river. Summaries of resource consent applications that affect the statutory acknowledgement area are required to be sent to Te Rūnanga o Ngāi Tahu; and the Council needs to consider whether Te Rūnanga o Ngāi Tahu are an affected party when making decisions under s95B and s95E. The statutory acknowledgement signifies the values that Te Rūnanga o Ngāi Tahu hold for the river, and consideration needs to be given to these values when considering the Activities on the Surface of Water topic.

In addition to the above, the Rangitata River is subject to a Water Conservation Order under Part 9 of the Resource Management Act 1991 (Water Conservation Order [Rangitata River] 2006). This order means that water, coastal, or discharge permits cannot be granted where the order would be contrary to the provisions in the order.

District Council role and jurisdiction under section 31(1)(e)

When considering the Council role under section 31(1)(e) it is important to consider what is meant by “lake” and “river” in the RMA in order determine what it is that the Council is responsible for managing. Under the RMA, lake “means a body of fresh water which is entirely or nearly surrounded by land”. Whilst river means:

“a continually or intermittently flowing body of fresh water; and includes a stream and modified watercourse; but does not include any artificial watercourse (including an irrigation canal, water supply race, canal for the supply of water for electricity power generation, and farm drainage canal)”

²² RMA section 31 (1) (e)

In this context, it is important how fresh water is defined in the RMA as both definitions rely on this term. In the RMA, fresh water “means all water except coastal water and geothermal water”; whilst coastal water “means seawater within the outer limits of the territorial sea and includes seawater with a substantial freshwater component; and seawater in estuaries, fiords, inlets, harbours, or embayment’s”. These definitions are consistent with the those set out in the National Planning Standards, as outlined in section 1.5.4 below.

Taking these definitions into account, activities on the surface of coastal waters are outside Council jurisdiction as only lakes and rivers are comprised of freshwater. As Timaru does not have any lakes within the district, only activities on the surface of rivers within the district can be considered as part of this review. Therefore, whilst the Ōpihi River Lagoon is currently provided for in the operative District Plan this area is outside Council’s jurisdiction and cannot be considered as a part of this review, nor can any other lagoons or estuaries.

The provisions in the District Plan cannot encroach into Regional Council functions under section 15 and section 30 of the Act, namely, the control of discharges of contaminants into or onto water and discharges of water into water, and the maintenance and enhancement of ecosystems in water bodies. The regional council also manages all activities in relation to the surface of water in the coastal marine area

1.7 National Policy Statements

The following National Policy Statements are of relevance to the Activities on the Surface of Water topic:

National Policy Statements	Relevance
National Policy Statement for Freshwater Management 2014	<p>The NPS-FW seeks that the significant values of outstanding freshwater bodies and wetlands are protected.²³ Outstanding freshwater bodies are defined as being: <i>“Those water bodies identified in an RPS or Regional Plan as having outstanding values, including ecological, landscape, recreational and spiritual values.”</i></p> <p>Related policies in Part D of the NPS-FW seek to ensure that local authorities take reasonable steps to involve iwi and hapū in the management of freshwater; work with iwi and hapū to identify values and reflect tangata whenua values and interest in management and decision-making in relation to freshwater and freshwater ecosystems. Most of these issues are within the responsibility of the regional council but there is some limited overlap with district council abilities to manage activities on the surface of waterways that affect the waterbody itself.</p>

1.8 National Environmental Standards

A territorial authority must prepare and change its district plan in accordance with any regulations.²⁴ None of the National Environmental Standards currently in place are of relevance to the Activities on the Surface of Water topic.

²³ NPS-FW Objective A2 and B4

²⁴ RMA section 74(1)(f)

1.9 National Planning Standards

The National Planning Standards require that all District Plans must include an Activities on the Surface of Water chapter if relevant to the district.²⁶ This chapter must be included under the General District-Wide Matters section of the District Plan, in Part 2: District Wide Matters. The Activities on the Surface of Water chapter should contain provisions to manage activities on the surface of water.²⁷ Defined terms in the National Planning Standards that have relevance to the Activities on the Surface of Water topic include:

- Coastal water
- Fresh water
- Lake
- River
- Structure
- Water
- Waterbody

The above terms are defined in the RMA, and the National Planning Standards cross reference to those RMA definitions.

1.10 Canterbury Regional Policy Statement 2013

A district plan must give effect to any regional policy statement.²⁸ The management of waterbodies, including rivers, streams, and lakes, is split between activities in the beds of waterbodies, which are managed by regional councils, and those on the surface, which are managed by territorial authorities. Therefore, unlike other topics for which the CRPS sets out specific provisions that directly apply to a topic in district plans, the CRPS does not set specific issues, objectives or policies that relate to activities on the surface of water. However, several provisions are relevant to consider to ensure the District Plan provisions are consistent with the CRPS and contribute to the desired policy direction for the Canterbury region.

Chapter 4 of the CRPS outlines the relationship Ngāi Tahu has with resources in the Canterbury region. A key tenant of the CRPS is the need to restore, maintain and enhance the cultural relationships between and their ancestral land, water, wāhi tapu and taonga through the provision of opportunities to protect, use resources, and be actively involved in the decision-making process. Wai Māori or fresh water is a taonga for Ngāi Tahu as water is an essential and integral part of the connection between Ngāi Tahu, as tangata whenua and their tribal territory. Key issues relating to fresh water include the need to ensure the management of adverse effects on fresh water; the need to ensure high quality fresh water supply for customary uses, and the protection of the intrinsic value of waterbodies and their riparian zones.

Chapter 7 sets out the issues, objectives and policies relating to freshwater for the region. Of importance to the Activities on the Surface of Water chapter is the need to protect the natural character of surface waterbodies. In recent years many waterbodies have experienced depleted values, including water quality and water flows, and the objectives of the CRPS include provisions to ensure the sustainable management of fresh water, protect the intrinsic value of waterbodies and their riparian zones²⁹, and promote the protection, restoration and improvement of lakes, rivers, wetlands and their riparian zones³⁰. Note the responsibilities in this chapter in terms of natural character of freshwater; enhancing fresh water environments and biodiversity; achieving water quality.

²⁶ National Planning Standards, District Plan Structure Standard, Mandatory direction 3

²⁷ National Planning Standards, District-wide Matters Standard, Mandatory direction 27

²⁸ RMA section 75(3)(c)

²⁹ CRPS Objective 7.2.3

³⁰ CRPS Policy 7.3.3

Protection and enhancement of areas of river and lake beds and their riparian zones is set out in Chapter 10 of the CRPS. This chapter primarily looks at the beds of lakes and rivers, but also looks at riparian margins and river areas which is important to consider when looking at activities on the surface of water. The chapter sets out the need to avoid adverse effects on the values of the beds, or stability of river and lake banks; and ensure that the integrity of flood-protection vegetation is maintained³¹.

In Chapter 9, the Statement of Local Authority Responsibilities states that territorial authorities will be solely responsible for specifying the objectives, policies, and methods for the control of the use of land for the maintenance of indigenous biological diversity on all land outside of wetlands, the coastal marine area, and beds of rivers and lakes. However, Ecosystems and Indigenous Biodiversity are addressed in a separate chapter.

1.11 Canterbury Land and Water Plan (including Plan Change 7)

In November 2021, the Canterbury Regional Council released decisions on Plan Change 7. The plan change covers a wide variety of topics including nutrient management, water abstraction and land use.

Particularly relevant to the issues covered by the Activities on the Surface of the Water of this District Plan, is the new policy 4.101 relating to Critical habitats. The definition of critical habitat includes a habitat contains one or more of the threatened species which includes the Upland long jaw galaxias (Canterbury West Coast), which according to the associated mapping is found within parts of the Timaru District.

The policy states “66 4.101 Avoid the damage or loss of any Indigenous Freshwater Species Habitat Critical Habitat caused by sediment discharges, vegetation clearance, excavation and or deposition of material, or other disturbance in, or on the bed, banks or riparian margins of a surface water body, river, lake or wetland, unless: a. the effects of habitat damage will be remedied or mitigated; or it is not practicable to avoid adverse effects..”

While the Regional Council powers relate to the bed, banks and riparian margins of a waterbody, the District Council powers only relate to the surface of water. However, as an activity on the surface of the water, such as the use of motorised craft on rivers, is likely to have an impact on the wider river context including fish habitat, this policy is considered relevant for the District Plan to address.

1.11.1 Canterbury Regional Council Navigation Safety Bylaw 2016

The Canterbury Regional Council Navigation Safety Bylaw 2016 sets out the rules that apply to activities on the surface of water in the Canterbury region. The bylaw also sets out the rules that apply nationally within the Maritime Rules part 91 and the Maritime Rules part 22.

The bylaw includes general safety rules such as the requirement to wear lifejackets, the rules for who can oversee a vessel on the water, and the minimum age for operating power-driven vessels. Specific requirements are for the establishment of access lanes and reserved areas, as well as swing moorings, and details regarding the enforcement powers that the regional council has under the bylaw.

³¹ CRPS Policies 10.3.2; 10.3.3 and 10.3.4

Of relevance to the Activities on the Surface of Water topic is that the Bylaw sets a speed limit of 5 knots for the operation of vessels on rivers, as well as other river safety rules regarding the navigation of the river. The speed limit does not apply to paddle craft or rafts.

Anyone can apply for a variation to the bylaw, these include a 'Temporary Reservation' which can set aside an area of water for an event, or a 'Temporary Exemption' which permits a temporary exemption from any part of the bylaw, including the speed limit.

2 Approach to Evaluation

Section 32(1)(b) requires an evaluation of whether the provisions are the most appropriate way to achieve the objectives by identifying other reasonably practicable options, assessing the efficiency and effectiveness of the provisions in achieving the objectives, and summarising the reasons for deciding on the provisions.

The assessment must identify and assess the benefits and costs of environmental, economic, social, and cultural effects that are anticipated from the implementation of the provisions, including opportunities for economic growth and employment. The assessment must, if practicable, quantify the benefits and costs and assess the risk of acting or not acting if there is uncertain or insufficient information available about the subject matter.

The proposed provisions relevant to the Activities on the Surface of Waterbodies chapter have been assessed in accordance with the following issues:

Issue 1 - Ensure the consideration and inclusion of the cultural values that Te Rūnanga o Arowhenua hold for the waterbodies in the district (note link to the Sites of Significance provisions).

Issue 2 - Consider the inclusion of other waterbodies in the district as the current District Plan only includes the Rangitata River and Ōpihi River.

Issue 3 - Refine the provisions to ensure they are clear and easy to understand rules that set out where motorised craft activities are not permitted to occur.

Issue 4 - Consider whether there are other motorised or non-motorised craft that need to be provided for in the plan provisions in new locations.

Issue 5 - Balancing the management of potential adverse effects on ecological and recreational values, while providing for activities on the surface of water.

2.1 Scale and significance

The table below sets out the scale and significance of managing activities on the surface of waterbodies in the district in terms of Council's statutory obligations, who may be affected by any proposed changes to the management regime, the type of effects that may occur and where in the district is mostly likely to be affected by the proposed changes to the District Plan. This will inform the nature and extent of the analysis of the proposed changes to the activities on surface of waterbodies provisions. For example, proposed provisions that will result in an overall high level of scale and significance will require a more in-depth analysis of proposed objectives, policies and rules including, potentially, an economic analysis, compared to changes that will have a low-level significance.

Issue: Activities on the surface of water		
Reasons for change in policy	District Plan Review Giving effect to matters of national importance in the RMA Giving effect to a higher order RMA document (RPS)	High
Relevant Statutory Considerations / Drivers	RMA Part 2, Section 32(e) CRPS	High
Degree of shift from status quo required	Moderate shift to provide for more specific activities on the surface of water and to ensure alignment with districts in cross-boundary rivers.	Medium
Who and how many will be affected?	Users of waterbodies including jet boaters, recreational fishermen, canoeists.	Low/Medium
Degree of impact on, or interest from iwi / Māori	Te Rūnanga o Arowhenua have a particular interest in this topic.	Medium
When will affects occur?	Effects will occur on an ongoing basis as users carry out activities on the surface of water.	Medium
Geographic scale of impacts / issue	Limited to the surface of waterbodies in the district.	Low/Medium
Type of effect(s)	There is a clear need for provisions to manage activities on the surface of water. These activities can result in conflicts between recreational users of waterbodies who have different needs. Effects on the natural environment can also arise, including impacts on bird and fish breeding (both indigenous and exotic species), the spread of pest plants, and noise effects.	Medium
Degree of policy risk, implementation risk, or uncertainty	There is a high level of understanding of the effects activities might have on both waterbodies and other users. The policy approach has been tailored to this understanding. There is a good level of understanding of benefits and costs, and the approach is similar to that employed elsewhere.	Low
Overall Assessment of Scale and Significance		Low/Medium

2.2 Approach to Managing Activities on the Surface of Water Issues

The objective and policy framework are intended to provide clarity on the need to manage activities on the surface of water in the Timaru District.

It is proposed to incorporate policies that supports the protection of high naturalness areas and indigenous flora and fauna within riparian margins from activities on the surface of water. It is intended to clearly identify where the use of motorised craft is permitted. The policy framework is focussed on providing for these activities in key areas that are appropriate, and restricting these activities where needed due to their anticipated adverse environmental effects.

2.3 Changes proposed

Operative Plan	Proposed Plan
Objective and policy framework.	Objective and policy framework emphasising where activities on the surface of waterbodies can occur as of right, where they are controlled and enabling specific rules to be applied to different rivers.
Specific provisions for two rivers	Provisions catering to specific activities on the surface of identified waterbodies, and clear guidance on what is and is not permitted.

2.4 Quantification of Costs and Benefits

Quantification of costs and benefits has not been undertaken for this topic. Impacts of activities on the surface of water and the resultant costs and benefits associated are difficult to value in monetary terms and it is seen as inappropriate to try to do so.

2.5 Choice of Evaluation Method(s)

The approach to evaluation for this topic is a cost-benefit analysis as the issue is of medium significance and because it is difficult to monetise the benefits and costs.

3 Evaluation of Objectives

3.1 Proposed objective

The proposed objective for the Activities on the Surface of Water chapter is:

ASW-O1 Protecting the ecological, recreational, natural character and cultural values of the district's river

The ecological, recreational, natural character and cultural values of the district's rivers are protected from the adverse effects of activities on the surface of water.

3.2 Evaluation

Category	Criteria	Comments
Relevance	Directed to addressing a resource management issue	Achieves The objective directly addresses the resource management issue of managing the effects of activities on the surface of waterbodies, particularly on ecological, natural character and cultural values.
	Focused on achieving the purpose of the Act	Achieves The objective directly addresses the resource management issue of natural importance of protecting natural character and significant habitats from the adverse effects of activities on the surface of waterbodies as set out in section 6(a) and s6(c) respectively of the Act. Also providing for the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga (s6e).
	Assists a council to carry out its statutory functions	Achieves The objective directly addresses section 31(e) of the Act.
	Within scope of higher-level documents	Achieves The objective gives effect to the NZCPS and the CRPS by ensuring that the District Plan includes provisions to manage effects of activities on the surface of water.
Feasibility	Acceptable level of uncertainty and risk	Achieves There is a low level of uncertainty and risk given that the objective necessarily reflects language in section 6 of the Act.
	Realistically able to be achieved within council's powers, skills and resources	Achieves The provisions will be able to be achieved within council's powers, skills and resources.
Acceptability	Consistent with identified iwi/Māori and community outcomes	Achieves The proposed provisions generally address the concerns of JBNZ by reducing the minimum river flow required to use the river for motorised craft from 30m ³ /sec to 20m ³ /sec. Provision has also been made to differentiate between recreational and commercial activities to address Forest & Bird's concerns and to address effects on fish spawning. Does not address matters more appropriately managed by the Regional Council and under the Maritime legislation and Navigation Safety Bylaws. The definitions are clear, particularly regarding the landmarks used to limit the range of permitted motorised craft.

	<p>Will not result in unjustifiably high costs on the community or parts of the community</p>	<p>Achieves The proposed provisions are based on similar provisions in the Operative Plan, with a more tailored approach and some additions to achieve greater effectiveness. These are not expected to result in unjustifiably high costs on the community or parts of the community.</p>
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4 Identification of Options

The following sets out the reasonably practicable options for achieving the objective for managing effects on the surface of water.

4.1 Option 1: Status Quo

This option involves a continuation of the operative Plan provisions including the current objectives, policies, rules, and approaches to managing effects of activities on the surface of water.

4.2 Option 2: Refined Provisions

This option builds on the operative Plan provisions including a refinement of the current objectives and policies, including new policies that provide for the values that Te Rūnanga o Arowhenua hold for the waterbodies in the district, and to provide greater direction where there is a balancing of ecological and recreation values.

These provisions are supported by rules that clearly set out what is and is not permitted and are easier to understand; and a conversion of the plan provisions into the new format to meet the requirements of the National Planning Standards.

5 Evaluation of Options

5.1 Evaluation table

OPTION 1 <i>Status-quo</i>			
Benefits Environmental	Economic	Social	Cultural
The ability of people to carry out activities on the surface of water is limited, ensuring protection of important environmental values, including avoiding activities on key rivers at certain times of the year when fish spawn and birds breed at key times of the year.	There may be savings in terms of time and cost as the Council and community are familiar with the provisions.	Continuation of the existing approach provides familiarity along with a level of certainty to the community. The outcomes achieved by the existing provisions will ensure the effects on the activities on the surface of water are managed and allow people to enjoy the recreation and amenity values of waterbodies in the district.	The outcomes achieved by the existing provisions may contribute to the ability to gather mahika kai and protect the cultural values of the waterbodies.
Costs Environmental	Economic	Social	Cultural

<p>The existing provisions do not specifically ensure motorised activities on the surface of water do not occur at crucial fish spawning and bird breeding times of year, as only two rivers are specified in the provisions.</p>	<p>The provisions continue to result in commercial users needing to apply for resource consent to carry out their activities. There are costs associated with the implementation of the existing provisions as resource consents for a discretionary activity are triggered for activities that do not comply with the rules. This results in costs to landowners/applicants in preparing the application and paying for the consent processing fees.</p>	<p>The community may be dissatisfied with the outcomes achieved by the existing provisions</p>	<p>The existing provisions do not specifically recognise or provide for cultural values associated with activities on the surface of water</p>
<p>Efficiency</p>	<p>This option is efficient in its ability to provide for activities on the surface of water though other activities and cultural requirements are not provided for</p>		
<p>Effectiveness</p>	<p>This approach would be effective in achieving the objective of providing for public access but only where they are already provided for, and only two rivers in the district.</p>		
<p>Strategic Direction(s)</p>	<p>This option does not directly contribute to achieving the relevant strategic objective as it does not provide for cultural values.</p>		
<p>Overall Appropriateness of Option 1</p>	<p>This option would achieve the objective in part</p>		

OPTION 2

Refined provisions

<p>Benefits Environmental</p>	<p>Economic</p>	<p>Social</p>	<p>Cultural</p>
<p>The provisions are updated to include consideration of identified spawning and breeding sites as set out in the LWRP. This opportunity also provides for consideration of the latest knowledge on the effects motorised craft may have on the environment and</p>	<p>The new provisions continue the same activity status for commercial surface water activities; therefore, the community is familiar with these provisions</p>	<p>The new approach will provide provisions for the district that are clearer to understand and determine whether an activity on the surface of water is permitted or not, and if not, objectives and policies will provide clear policy direction.</p>	<p>The new provisions include explicit acknowledgement of the cultural values of waterbodies that exist, ensuring some consideration is given to the values of Te Rūnanga o Arowhenua</p>

allows for the creation of more explicit policy direction ensuring clarity for waterbody users and the protection of the waterbody environment			
Costs Environmental	Economic	Social	Cultural
None identified	The provisions will have some economic cost to commercial users of waterbodies who will need to apply for resource consent to operate their activities. This remains unchanged from the operative District Plan	A change to the approach may be of concern to some waterbody users and stakeholders	None identified
Efficiency	This option is an efficient method of meeting the objective given the costs and benefits identified above, and the issues identified with the existing provisions		
Effectiveness	This option will be effective at implementing the objective and more effective than the status quo as clearer provisions that are easier to understand will be provided.		
Strategic Direction(s)	This option is better aligned with the strategic objectives as it allows for incorporation of cultural values and potentially access to cultural resources.		
Overall Appropriateness of Option 2	This option is the most appropriate in achieving the objective		

5.2 Risk of Acting or Not Acting

Where there is uncertain or insufficient information, an evaluation of the risk of acting or not acting is important. In this case it is considered that there is little uncertainty in the issue or the potential significance of the issue. It is considered that given that the proposed provisions take a similar approach to the operative provisions, there is sufficient information to act. It is therefore concluded that there is a low risk of acting in the proposed manner to introduce updated and replacement provisions to appropriately manage the effects of activities on the surface of water.

6 Preferred Option

This evaluation has been undertaken in accordance with Section 32 of the RMA in order to identify the need, benefits and costs and the appropriateness of the proposal having regard to its effectiveness and efficiency relative to other means in achieving the purpose of the RMA. The evaluation demonstrates that Option 2 is the most appropriate option as:

- The approach will enable the evaluation and inclusion of other waterbodies that may accommodate activities on the surface of water.
- The provisions will be more directive to the need to include other parties who carry out activities on the surface of water, including takata whenua and regulatory authorities.
- The benefits outweigh the costs that the approach will be effective in ensuring activities on the surface of water are provided for in the District Plan.

Overall, it is considered that the set of preferred provisions is the most appropriate given that the benefits outweigh the costs, and there are considerable efficiencies to be gained from adopting the preferred provisions. The risks of acting are also clearly identifiable and limited in their extent. This preferred approach updates the plan provisions to consider new waterbodies for inclusion in the plan, whilst ensuring the protection of bird and fish species that breed in the waterbodies and assist in protecting the indigenous flora and fauna that live in riparian margins.