

Before the Independent Hearing Panel
Appointed by the Timaru District Council

Under	Schedule 1 of the Resource Management Act 1991 (RMA)
In the matter of	Submissions on the Proposed Timaru District Plan
Between	Various
	Submitters
And	Timaru District Council
	Respondent

Andrew Cameron Maclellan – Final reply

Rural Zones, VS, PA, ASW, Heritage and Trees

4 August 2025

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**anderson
lloyd.**

Introduction

- 1 My name is Andrew MacLennan. I am an Associate at the firm Incite. I prepared the s42A report on the Rural Zones. I confirm that I have read all the submissions, further submissions, submitter evidence and relevant technical documents and higher order objectives relevant to my section 42A report. I have the qualifications and experience as set out in my s42A report.
- 2 The purpose of this statement is to provide my final reply in relation to the chapters in respect of which I prepared section 42A reports in accordance with the directions contained in Minute 38.

Panel directions – Minute 38

- 3 Minute 38 directed that I provide a final reply that addresses the following:
 - (a) Not repeat but confirm interim replies where no further changes are recommended;
 - (b) Address any further amendments to the definitions, Strategic Objectives Chapter, any consequential amendments, and any errors;
 - (c) Confirm collective agreement between s42A officers on integration matters;
 - (d) Illustrate any further recommended amendments to the provisions in double underline and strikethrough.
- 4 Minute 38 also directed me to respond to the following specific questions.

Specific questions raised by the Panel

Final Reply - Hearing E s32AA evaluation of recommended changes

- (a) *Mr MacLennan appears to adopt a blanket approach to his conclusions and undertakes a s32AA analysis for all recommended amendments. Can Mr MacLennan clarify which of his recommended changes to provisions are Clause 16(2) or Clause 10(2)(b) changes.*
- 5 Within my interim response I have recommended eight Clause 16(2) recommendations:
 - (a) The title and chapeau of HH-P6
 - (b) The removal of “not” within HH-P8(2)
 - (c) The title of HH-R8

(d) HHI-25, HHI-208, HHI-209, HHI-210

- 6 I consider these are Clause 16(2) amendments and do not require a s32AA assessment. The Section 32AA assessment included within paragraph 45 of my interim response is not required.

Final Reply – Hearing E heritage matters

(b) *Mr MacLennan in his interim reply¹ confirmed, in response to Ms Seaton's evidence, that once demolished he anticipates being able to recommend the removal of item HHI-75 Sailors Rest/South Canterbury Seafarers' Centre from Schedule 3 in his final reply. Conversely, Mr MacLennan does not arrive at the same position in response to Mr Gray's relief which seeks to remove item HHI-79 Hampton House from Schedule 3, noting that Mr Gray has stated he also has a consent to demolish the property. Is there an inconsistent approach being applied?*

- 7 I acknowledge that the approach within my interim reply was inconsistent. I should have expressed the same option for Mr Gray, i.e., that if either submitter can provide evidence of the historic heritage item's demolition, I will recommend the removal of either building from the SCHED3.
- 8 For clarity, both of these items have been granted certificates of compliance (COC's) to demolish the HHI, the details are as follows:
- (a) HHI-75 Sailors' Rest/South Canterbury Seafarers' Centre Timaru Planning COC granted in 2020 (106.2020.178.1) to demolish the existing building. Date of COC expiry 25/11/2025.
- (b) HHI-79 Hampton House, COC granted in 2021 (106.2021.123.1) to demolish the existing building. Date of COC expiry 26/08/2026.
- 9 Since the hearing I have been in contact with both Mr Gray and Ms Seaton to enquire as to whether the buildings have been demolished.
- 10 Mr Gray has advised that HHI-79 Hampton House has not currently been demolished. However, he still seeks that the building be removed from the district plan. I have contacted Dr McEwan, who has advised that no evidence has been presented at the hearing that would persuade her to

¹ Andrew Cameron MacLennan, Hearing E Interim reply, Historic Heritage and Notable Trees, 17 April 2025

change her mind about the heritage value of the building, and therefore her recommendation to schedule the building remains unchanged.

- 11 As highlighted in my response to questions from the Hearing Panel within Hearing E, my view is that the objectives of the HH chapter require the identification² and protection³ of HHI's from inappropriate subdivision, use, and development. Given Dr McEwan's advice that HHI-79 Hampton House has sufficient heritage value to be listed within Schedule 3 of the PDP, I retain the view that in order to achieve the objectives of the HH chapter, HHI-79 Hampton House should be retained within Schedule 3 of the PDP.
- 12 With respect to HHI-75 Sailors Rest/South Canterbury Seafarers' Centre, Ms Seaton has advised that has building has been demolished. Given this, I recommend that HHI-75 Sailors Rest/South Canterbury Seafarers' Centre be removed from SCHED3.

Final Reply - Hearing F Noise Chapter matters

(a) Mr MacLennan: To revisit his response to submissions in Hearing B on GRUZ-S4 in regard to frost fans, where he indicated he would review his position after hearings on the Noise Chapter. Mr MacLennan is to confer with Ms White and present a joint position or set out reasons why they are not aligned.

- 13 I have conferred with Ms White regarding the response to submissions on GRUZ-S4 regarding frost fans. Following our discussion, I support Ms White's recommended amendment to GRUZ-S4, as outlined in paragraph 8.2.15 of her s42A report, for the reasons set out in her report.
- 14 This amendment would prevent the establishment of any new noise sensitive activity within 100 metres of an existing or consented frost fan. Beyond this distance, the provisions of the NOISE chapter will ensure that where a new noise sensitive activity is proposed between 100 and 300 metres of a frost fan, acoustic insulation and ventilation requirements will apply to manage potential reverse sensitivity effects.
- 15 During our discussion, we also noted a slight misalignment between the proposed amendment to GRUZ-S4 and Ms White's suggested additions to NOISE-R9. This issue, along with a proposed resolution, is addressed in Ms White's final reply.

² HH-01

³ HH-02

Confirmation of interim replies/ further amendments to provisions

- 16 I confirm that the recommendations set out in my interim replies still stand, except as identified below. The further amendments I recommend to provisions are as set out below.

Hearing B – Interim reply dated 20 September 2024 – Rural Chapters

- 17 There is one suggested minor amendment to be made to RLZ-R2.
- 18 Upon review of the RLZ chapter, I recommend a minor clause 16(2) amendment to RLZ-R2 to clarify that the rule applies to residential units, including minor residential units. The suggested clarification is helpful because minor residential units⁴ are a subset of residential units⁵. The suggested amendment clarifies that the rule permits one principal residential unit per site and one minor residential unit per site. The suggested amendments are as follows:

RLZ-R2	Residential units and <u>including</u> ⁶ minor residential units	
Rural Lifestyle Zone	Activity status: Permitted	Activity status where compliance not achieved with PER-5: Restricted Discretionary
	Where:	
	PER-1	
	There is a maximum of one <u>principle</u> ⁷ residential unit per site and one minor residential unit per site; and	Matters of discretion are restricted to:
	...	1. the matters of discretion of any infringed standard.
		Activity status where compliance not achieved with PER-1, PER-2, PER-3, or PER-4: Non-complying

⁴ means a self-contained residential unit that is ancillary to the principal residential unit, and is held in common ownership with the principal residential unit on the same site.

⁵ means a building(s) or part of a building that is used for a residential activity exclusively by one household, and must include sleeping, cooking, bathing and toilet facilities.

⁶ Clause 16(2) RMA

⁷ Clause 16(2) RMA

- 19 For completeness, I note that following the filing of my interim reply on the Rural Chapters (20 September 2024), I have also filed further evidence on two additional matters, being:
- (a) Rezoning of the Clandeboye Dairy Manufacturing Site⁸; and
 - (b) Non-commercial fixed-wing aircraft⁹.
- 20 The amendments proposed within this additional evidence have been included in the s42A Officers Final Reply Consolidated Set of Provisions.

Rezoning of the Clandeboye Dairy Manufacturing Site

- 21 With respect to rezoning the Clandeboye Dairy Manufacturing Site (CDMS), I note that the Joint Witness Statement (JWS) was focused on Fonterra's rezoning requests seeking to amend the zoning of the CDMS from General Industrial Zone (GIZ), as notified, to a Special Purpose Zone, specifically the Clandeboye Dairy Manufacturing Zone.
- 22 Fonterra also lodged a submission point [165.2] seeking the rezoning 37 Rolleston Road, 2 and 10 Kotuku Place, and the existing car park at the intersection of Milford Clandeboye, Rolleston and Canal Road (Lot 1 DP 81114 and Section 1 SO 20203) from GRUZ to GIZ. These are the two parcels of land located on the northern side of Rolleston Road shown the blue circles in Figure 1 below:

⁸ Joint Witness Statement, 2 October 2024

⁹ Memorandum of Counsel for the Council, 28 February 2025.



Figure 1: Clandeboye Dairy Manufacturing site¹⁰

- 23 Within paragraph 34(d) of my summary statement¹¹, in response to the rezoning request I have stated:

(d) I agree in principle that the sites at 37 Rolleston Road and 2-10 Kotuku Place could be re-zoned to enable the on-going development of the Clandeboye site, provided a pathway through the NPS-HPL can be demonstrated. In my view, the submitter's assessment of clause 3.6 of the NPS-HPL does not clearly set out the pathway through clause 3.6 and it would be helpful if that were specifically addressed at the hearing.

- 24 The rezoning request was not addressed in my Hearing B interim reply, nor was it specifically covered in the JWS. However, the "Clandeboye Dairy Manufacturing Precinct Building Control Plan" (Figure 2 below), which I supported through the JWS, includes these parcels within the proposed precinct boundary.

¹⁰ Original image shown within paragraph 5.1.2 of Ms Taits EIC

¹¹ https://www.timaru.govt.nz/_data/assets/pdf_file/0003/906762/MacLennan-s42A-summary-Hearing-B.pdf

Figure X - Clandeboye Dairy Manufacturing Precinct Building Control Plan



Figure 2: Clandeboye Dairy Manufacturing Precinct Building Control Plan as included within JWS

- 25 For completeness, I provide the following recommendation regarding submission point [165.2], which seeks to rezone 37 Rolleston Road, 2 & 10 Kotuku Place and Lot 1 DP 81114 and Section 1 SO 20203 from GRUZ to GIZ.
- 26 Paragraphs 7–22 of the supplementary legal submissions from Mr Williams (on behalf of Fonterra¹²,) include an assessment of Clause 3.6(4) of the NPS-HPL. I consider that this assessment adequately demonstrates that the proposed rezoning meets the requirements of Clause 3.6(4).
- 27 In relation to Clause 3.6(5) of the NPS-HPL, Ms Tait (paragraph 6.8.12 of her EIC) explains that Fonterra is planning to convert the site's coal-fired boilers to biomass. The boilers are located near the corner of Rolleston and Donehue Roads, and she considers the 37 Rolleston Road site the most efficient and effective location for new infrastructure needed to support this conversion. Ms Tait also states (paragraph 6.8.14 of her EIC) that Fonterra are proposing to rezone only the area of the site they consider necessary to deliver the biomass conversion project.

¹² https://www.timaru.govt.nz/_data/assets/pdf_file/0016/910015/Sub165-Fonterra-Limited-Supplementary-Legal-Submissions-Hearing-B.pdf

- 28 I agree that the proposed rezoning will achieve the requirements of Clause 3.6(5) of the NPS-HPL.
- 29 Based on the assessment above and the rational provided in the evidence of both Ms Tait and Mr Williams, I recommend that 37 Rolleston Road, 2, and 10 Kotuku Place be rezoned from GRUZ to GIZ and included within the proposed Clandeboye Dairy Manufacturing Precinct as set out within the JWS.
- 30 Finally, as a consequential amendment to the inclusion of the Clandeboye Dairy Manufacturing Precinct Building Control Plan (Clandeboye BCP), which sets specific height limits within the proposed precinct, I recommend removing the Height Specific Control Area from the area covered by the Clandeboye BCP. This is because the site-specific height controls in the Clandeboye BCP supersede those in the notified PDP.
- 31 Figure 3 below shows the area within the blue outline that is recommended to be removed from the Height Specific Control Area.

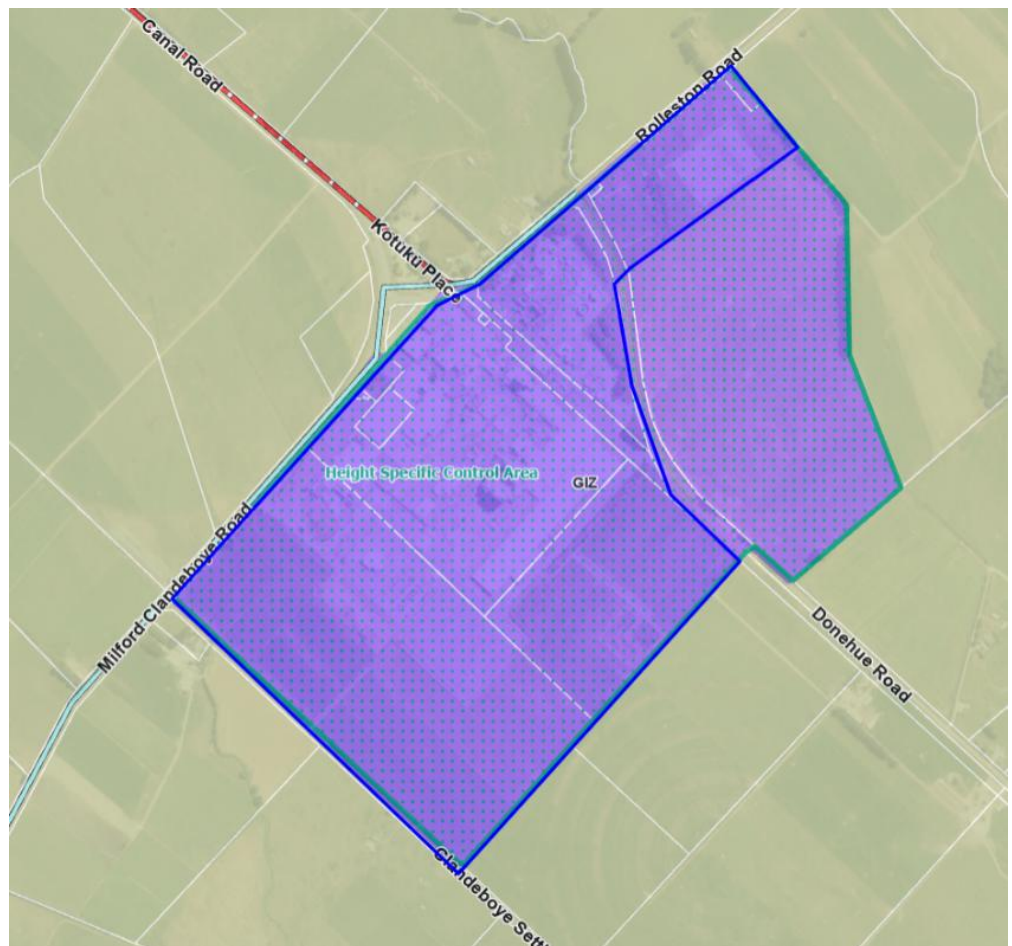


Figure 3: Recommended amendments to Height Specific Control Area

Section 32AA

- 32 I consider the proposed rezoning is an appropriate method to achieve Objectives GIZ-O1, GIZ-O2, and GIZ-O3. These objectives seek to enable efficient industrial activities, compatible support activities, and sustainable growth contributing positively to the district's economic wellbeing. Extending the GIZ in this location will facilitate future industrial development in a consolidated manner, supporting long-term operational sustainability and avoiding piecemeal or fragmented development. The rezoning directly responds to an identified operational need, specifically, supporting Fonterra's conversion from coal-fired boilers to biomass energy infrastructure, which will deliver broader environmental and operational benefits.
- 33 In assessing environmental costs, the rezoning would result in approximately 8.8ha of land being rezoned from GRUZ to GIZ. While this change alters the productive rural potential of the rezoned area, the loss is minor and acceptable as the sites are not actively utilised for rural production and currently serve industrial-support functions. Historically, the site at 2–10 Kotuku Place was the location of Clandeboye School and now houses Fonterra offices and a training centre. The site at 37 Rolleston Road presently serves as a laydown area supporting construction and development projects at the main dairy manufacturing site.
- 34 Specific bulk and location controls, including building setback distances, height restrictions, and landscaping requirements, have been incorporated into the proposed precinct provisions. These controls effectively mitigate potential adverse effects on the adjacent Clandeboye kindergarten, ensuring outcomes consistent with the current zoning expectations under GRUZ.
- 35 Overall, I consider that the proposed amendments will not result in cultural or social costs, given the existing industrial nature of the sites and the absence of culturally significant features. The economic outcomes of the rezoning are positive, supporting enhanced industrial efficiency and sustainability at the Clandeboye Dairy Manufacturing Site. The environmental costs are limited, involving only the loss of a relatively small, already compromised area of rural land. Therefore, the rezoning is considered the most appropriate method to achieve Objectives GIZ-O1, GIZ-O2, and GIZ-O3.

Hearing E - Historic Heritage (HH) and Notable Trees (TREES)

- 36 Several minor clause 16(2) amendments have been made to SCHED4A — Schedule of Contributory Historic Features, the associated mapping, and the “Sensitive environment” definition to align the schedule with the recommendations within Dr McEwan's evidence and align with the definition of “Heritage Setting”.
- 37 In addition, consequential amendments have been recommended to HH-P7 and HH-P15 to include reference to EI-PX which manages adverse effects of the National Grid in addition to the reference EI-P2 which manages adverse effects of regionally significant infrastructure.
- 38 These minor amendments have been included in the s42A Officers Final Reply Consolidated Set of Provisions.

Hearing F - Activities on the Surface of Water (ASW), Versatile Soil (VS), Public Access (PA)

- 39 The following matters required further clarification:
- (a) Additional rivers.
 - (b) Policy titles

Additional rivers

- 40 Within my s42A report, my response to the submission point was as follows:
- “I agree in principle with the concept that the PDP could permit the recreational use of motorised craft within additional rivers provided the ecological, recreational, natural character and cultural values of the District's rivers are protected from the adverse effects. However, I also agree with the further submission from Dir. General Conservation that if the recreational use of motorised crafts is permitted on additional rivers, there needs to be permitted standards included to ensure the values of these rivers are protected as required by ASW-O1. Without this assessment I disagree any amendments to the PDP are justified. If further evidence is provided to support the addition of these rivers I would reconsider this recommendation in light of any further evidence.”*
- 41 Further evidence has been provided by Mr Smith and also Mr Jolly for Jet Boat. With respect to riverbed bird protection, this evidence accepts the addition of a “time of year” restriction from January to August. The evidence also notes that JBNZ is also not aware of specific fish spawning areas associated with these rivers but note that JBNZ will take note of expert

evidence to the contrary and will accept a permitted standard to exclude recreational jet boating activities within these areas.

- 42 I note that the evidence of Mr Lagrue acknowledged that he was supportive of the three additional rivers being added to the PDP provided the permitted standards ensured the use of recreational use of motorised craft occurs between February and August, to ensure the activity is located outside the bird breeding season.
- 43 When considering the potential effects on ecological values, with respect to these rivers, I have reviewed whether there are any sites on these rivers that warrant protection. There are no “critical habitats” or “salmon spawning sites” on any of these rivers mapped with the LWRP. Therefore, if an additional rule is included within the PDP, I consider there is no additional need make additions SCHED13 – Schedule of Fish Spawning Areas.
- 44 In addition, I note that Te Ngawai River is identified as SNA-854 under the PDP:

“Te Ana a Wai River - (Tengawai River) Maze Road, Pleasant Point”

- 45 The Timaru District SNA survey for the “Te Ana a Wai River” SNA¹³ highlights that:

“The riverbed provides habitat for threatened river bird species. The contiguous riparian/berm vegetation buffers the river from adjoining land use activities and provides habitat to the threatened long-tailed bat and may facilitate the dispersal and persistence of other indigenous fauna including lizards and forest birds.”

- 46 From a cultural perspective I note that Te Ngawai River is identified as SASM-14 under the PDP:

“Te Ana a Wai (Tengawai) River and tributaries:

The awa and its tributaries are important as kohanga (nursery) for kai species. Values include wai puna, taoka species, mahika kai, wai māori, Kā tuhituhi o neherā, ara tawhito, wahi paripari and nohoaka. The Ngāi Tahu Claims Settlement Act 1998 recognises a nohoaka on land next to the river.”

¹³ https://www.timaru.govt.nz/_data/assets/pdf_file/0009/675459/Significant-Natural-Area-Survey-Report-for-Te-Ana-a-Wai-River-Tengawai-River-SNA-854.pdf

- 47 In addition, both the Te Moana and Waihi Rivers are identified as SASM-20 under the PDP:

“Te Umu Kaha (Temuka), Haehae Te Moana and Waihi Rivers

These awa and the network of streams and wetlands between the Haehae Te Moana and Ōpihi rivers was an important mahika kai source for Waiaiteruati pā, with day excursions to collect food. Other values include wahi paripari and ara tawhito.”

- 48 For completeness, I note that the other four rivers identified within the River Protection Areas within SCHED17 (Rangitata, Ōrāri, Ōpihi, Pareora/Pureroa) are also identified as SASM sites within the PDP.
- 49 As part of developing these additional rules I have also been in contact with representatives of Arowhenua via Kylie Hall, Principal Planner at Aoraki Environmental Consultancy Limited. Ms Hall provided a memorandum providing a cultural assessment of the three rivers, which sets out the cultural significance of these rivers' sites and also the implications of enabling jet boats on these rivers. This memorandum is included within Appendix A to this reply. The memorandum has raised concerns within recreational jetboat use on the Te Ngawai, Te Moana and Waihi Rivers during:
- Bird breeding season
 - Kanakana spawning season
 - Whitebait season
 - Inanga spawning season
 - Tuna / Eel elver return season and spawn migration

50 I have included an image below that identifies the times of the year these occur:

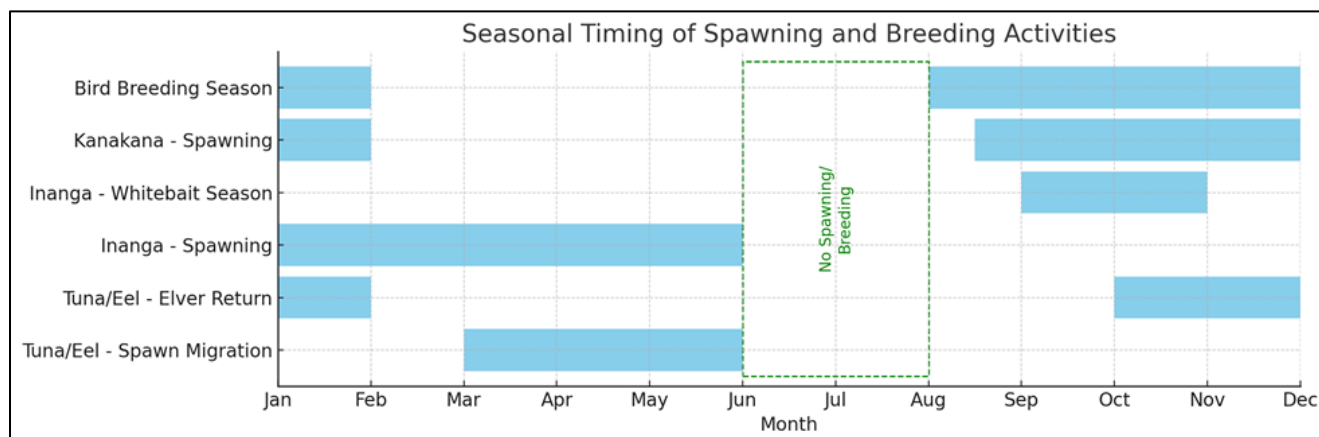


Figure 4: Showing seasonal timing of spawning and breeding activities

- 51 The memorandum has also raised safety concerns if motorised craft are used when rivers are in flood. As set out in the introduction to the ASW chapter, speed and navigational safety associated with the use of watercraft is managed by the Environment Canterbury Navigational Safety Bylaw. Therefore, it is not the role of the ASW chapter to regulate navigational safety matters.
- 52 Following discussions with representatives of JBNZ, I have confirmed with them the extent of the amendments to the SCHED17 – Schedule of river protection areas and the appropriate location of the flow measurement location. The drafting proposed has been agreed to by representatives of JBNZ.
- 53 From a drafting perspective, I have recommended these additional rivers be added as separate rules as this follows the structure of the existing chapter and enables the river specific flow recording site to be expressed within the rule.

<u>ASW-R6A</u>		
<u>The recreational use of motorised craft on the Te Ngawai River</u>		
<u>River Protection Area between the Timaru District boundary and confluence of</u>	<u>Activity status: Permitted</u>	<u>Activity status where compliance not achieved with PER-1: Discretionary</u>
	<u>Where:</u> <u>PER-1</u> The use is not for a commercial activity; and <u>PER-2</u>	<u>Activity status when compliance not achieved</u>

<u>the Te Ngawai and Ōpihi Rivers (RPA-6)</u>	<p>The use is undertaken between June and July (inclusive); and</p> <p>PER-3 The flow, when measured at the Cave, is 10 cumecs or greater.</p>	<p><u>with PER-2 or PER-3: Non-complying¹⁴</u></p>
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<u>ASW-R6B</u>	<u>The recreational use of motorised craft on the Te Moana River</u>	
<u>River Protection Area between the Sheep Dip Road Bridge and the confluence of the Te Moana and Waihi Rivers (RPA-7)</u>	<p><u>Activity status: Permitted</u></p> <p><u>Where:</u></p> <p>PER-1 The use is not for a commercial activity; and</p> <p>PER-2 The use is undertaken between June and July (inclusive); and</p> <p>PER-3 The flow, when measured at Glentohi, is 10 cumecs or greater.</p>	<p><u>Activity status where compliance not achieved with PER-1: Discretionary</u></p> <hr/> <p><u>Activity status when compliance not achieved with PER-2 or PER-3: Non-complying¹⁵</u></p>

<u>ASW-R6C</u>	<u>The recreational use of motorised craft on the Waihi River</u>	
<u>River Protection Area between the Timaru District boundary and the Te Awa</u>	<p><u>Activity status: Permitted</u></p> <p><u>Where:</u></p> <p>PER-1 The use is not for a commercial activity; and</p> <p>PER-2</p>	<p><u>Activity status where compliance not achieved with PER-1: Discretionary</u></p> <hr/> <p><u>Activity status when compliance not achieved</u></p>

¹⁴ Jet Boating [48.7]¹⁵ Jet Boating [48.7]

<u>Road Bridge (RPA-8)</u>	<p>The use is undertaken <u>between June and July (inclusive); and</u></p> <p><u>PER-3</u> <u>The flow, when measured at the DOC Reserve, is 10 cumecs or greater.</u></p>	<u>with PER-2 or PER-3: Non-complying¹⁶</u>
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SCHED17 — SCHEDULE OF RIVER PROTECTION AREAS

Unique Identifier	Location
RPA-1	A stretch of the Rangitata River between NZMS 260 J36 Grid:515208 upstream to the river ends (above Red Rocks).
RPA-2	A stretch of the <u>Rangitata</u> ¹⁷ river between NZMS 260 J36 Grid:515208 downstream to the river mouth (below Red Rocks).
RPA-3	A stretch of the <u>Ōpihi Ōrāri</u> ¹⁸ River between BY19:553-335 to the Factory Road Bridge over the river (K38:77-681).
RPA-4	A stretch of the Ōpihi River between SH1 Bridge and confluence of the Ōpihi and Ōpūha River.
RPA-5	A stretch of the Pareora/Pureroa River between Evans Crossing and the State Highway 1 Bridge
<u>RPA-6</u>	<u>A stretch of the Te Ngawai River between Timaru District boundary and confluence of the Te Ngawai and Ōpihi Rivers.</u> ¹⁹

¹⁶ Jet Boating [48.7]

¹⁷ Clause 16(2)

¹⁸ Jet Boating [48.13]

¹⁹ Jet Boating [48.7]

<u>RPA-7</u>	<u>A stretch of the Te Moana River between Sheep Dip Road Bridge and the confluence of the Te Moana and Waihi Rivers.²⁰</u>
<u>RPA-8</u>	<u>A stretch of the Waihi River between the Timaru District boundary and the Te Awa Road Bridge.²¹</u>

54 The following three maps show the extent of the additional river protection area:

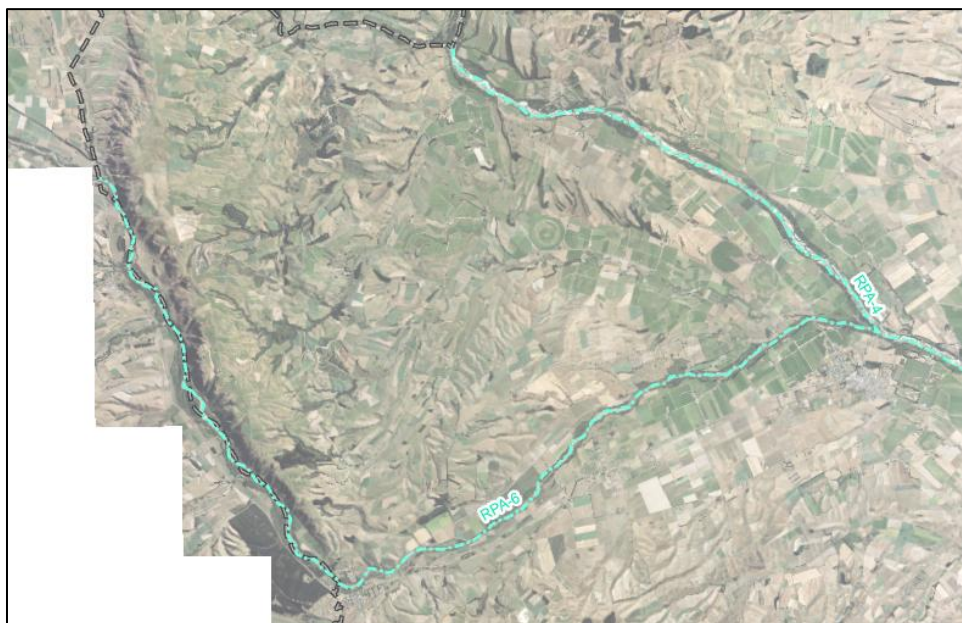


Figure 5: RPA-7 - Te Ngawai River

²⁰ Jet Boating [48.7]

²¹ Jet Boating [48.7]

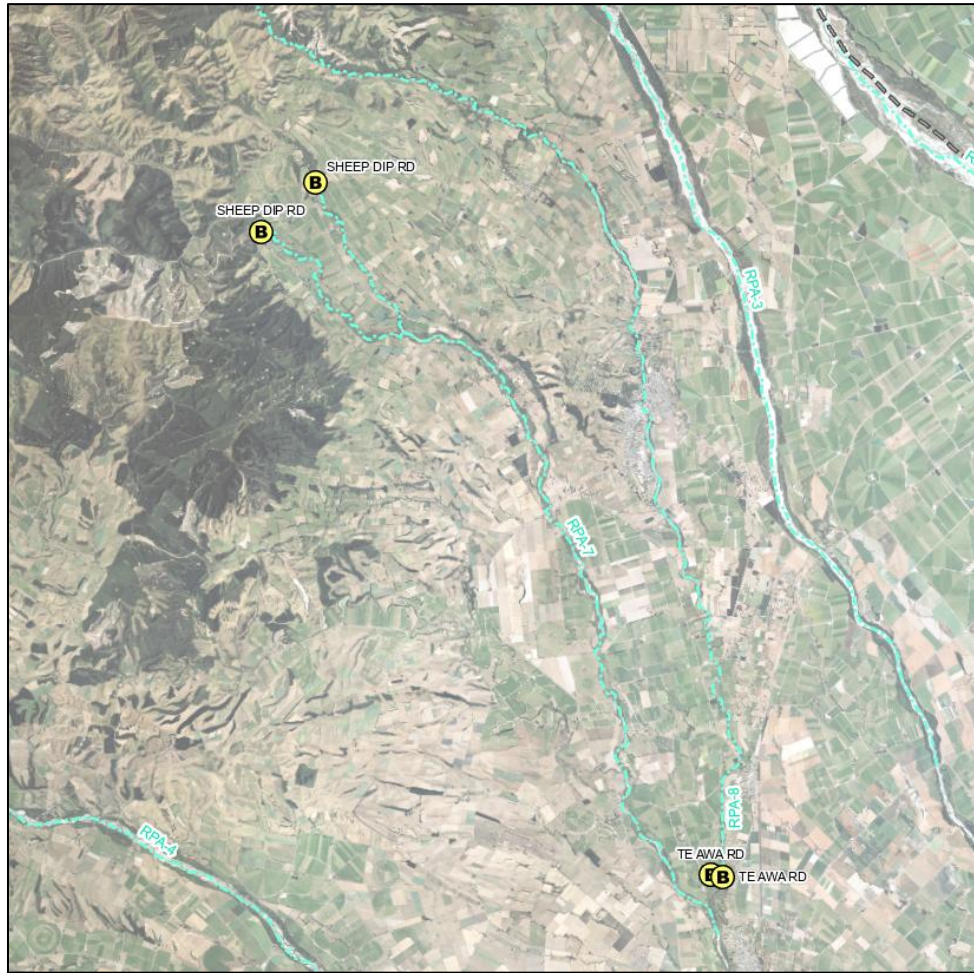


Figure 6: RPA-7 and RPA-8 Te Moana and Waihi Rivers

Section 32AA

- 55 I consider the proposed amendments represent an appropriate method to achieve the Objective ASW-O1, which seeks to protect the ecological, recreational, natural character, and cultural values of the district's rivers from the adverse effects of inappropriate activities
- 56 I consider the addition of the proposed rules are efficient because they use a clear and enforceable rule structure that specifies river-specific standards (such as flow thresholds and seasonal restrictions), which allows users to easily understand when and where motorised recreation is appropriate. The rules also avoid unnecessary regulation by not duplicating controls that are already managed under other instruments, such as the Environment Canterbury Navigation Safety Bylaw.
- 57 I consider the amendments are effective as they are based on updated expert ecological evidence, cultural input, and feedback from affected

recreational users. These inputs have informed the inclusion of seasonal restrictions that avoid key ecological and cultural sensitivity periods, while still enabling recreational access outside those times. As a result, the rule changes strike a balance between enabling use and managing effects.

- 58 I consider the proposed amendments will provide a social/recreational benefit as they enable greater use of the Te Ngawai, Te Moana, and Waihi Rivers in a controlled manner that protects ecological and cultural values. I consider there will be no cultural, economic, or environmental costs associated with the proposed amendments.

Chapter title

- 59 Within the Interim reply, the VS chapter was called “VS - Versatile Soils”. However, as I have recommended replacing the all the references within the chapter from “Versatile Soil” to “Highly Productive Land”, including replacing the “Versatile Soils Overlay” with a reference to a definition of “highly productive land”, I consider that the chapter titles and the policy titles should also be amended to refer to “highly productive land”. I consider these changes are consequential to the substantive changes to the policies.

Section 32AA

- 60 I consider the recommended amendments are minor in nature and resolve minor inconsistencies with the VS chapter. I do not consider that the recommended amendments will have any greater economic, social, and cultural effects than the notified provisions.

Amended provisions

- 61 The amendments proposed in this final reply are set out in double underline and double strikethrough in the updated chapters contained in s42A Officers Final Reply Consolidated Set of Provisions.

Andrew MacLennan

4 August 2025

**Appendix A - Cultural assessment memorandum from Aoraki
Environmental Consultancy Limited.**

Memorandum

To: Andrew McLennan – Resource Management Consultant / Associate – Incite

CC: Aaron Hakkaart – Planning Manager – District Plan Review

From: Kylie Hall – Principal Planner - AECL

Date: 28 May 2025

Subject: **Timaru District Plan Review – Activities of the Surface of Water (Hearing F)**

PURPOSE

The purpose of this memorandum is to provide comment on the additional rules sought within the Activities on the Surface Water Chapter (ASW) as part of Hearing F. The additional rules sought to be included in the Timaru Proposed District Plan relate to Jet Boat New Zealand's (JBNZ) submission and evidence seeking the ability for jet boats to be operated on three additional rivers within the District. The three rivers are:

- Te Ana A Wai/Tengawai River
- Hae Hae Te Moana River
- Waihi River

Aoraki Environmental Consultancy Limited (AECL) have been asked to provide a cultural assessment setting out the cultural significance of these rivers sites and the implications of enabling jet boats to operate on the cultural values held by Kati Huirapa known as Te Runanga o Arowhenua (Arowhenua). The three rivers have been identified as Sites and Areas of Significance (SASM) within the SASM Chapter.

This report is to be provided to Council's s42a report writer Andrew McLennan in order for him to respond to questions asked of him by the Independent Hearings Panel.

Cultural Values

For Māori, water is the essence of all life, akin to the blood of Papatuanuku (Earth Mother) who supports all people, plants and wildlife. Māori assert their tribal identity in relation to rivers and particular waterways have a role in tribal creation stories. Rivers are valued as a source of mahika kai, hāngi stones and cultural materials, as access routes and a means of travel, and for their proximity to important wāhi tapu, settlements or other historic sites¹. Indicators of the health of a river system (such as uncontaminated water and species gathered for food, continuity of flow from mountain source to the sea) can provide a tangible representation of its Mauri.

Te Wairua

The cultural identity of Ngai Tahu stems from their relationship with maunga, roto and awa. Arowhenua identifies with the surrounding mountains and their awa as evidenced by their mihi. The spiritual health and wellbeing of Arowhenua whānui is dependent on the continued health and wellbeing of these mountains, the waterways of South Canterbury and the resources supported by the waterways, ki uta ki tai. Adverse impacts represent a loss in the culture and identity of Arowhenua.

¹ Te Runanga O Ngai Tahu (undated) "Freshwater Policy" available on www.ngaitahu.iwi.nz

Mahika Kai

Arowhenua had an intimate knowledge of the resources available to them and utilised this knowledge to develop a seasonal cycle of harvesting of mahika kai. Arowhenua relied on extensive areas of land and a myriad of water-based food resources. Because of the way in which food was collected from different areas at different times (sustainable environmental management through the application of kaitiakitanga (Māori environmental stewardship)), Arowhenua ensured the continued availability of the resource.

Arowhenua have lost a lot of their traditional food gathering places in the South Canterbury region due to a variety of reasons including the introduction of pests, domestic animals, pastoral farming, and modification to waterways most notably through damming, abstractions for irrigation and gravel extractions and draining of wetlands that would once have been a natural habitat to many plants and animals valued by Arowhenua. Consequently, the ability to undertake mahika kai on and around rivers is fiercely protected.

Cultural Values Associated with Rivers

The Ōpihi River is of immense significance to Arowhenua. The Ōpihi River flows from the foothills of the Southern Alps at elevations of up to 2,200 m through the Timaru downlands and over the Canterbury Plains (i.e. including the Levels Plains area) to the coast. The entire catchment of the Ōpihi River is made of three additional rivers or tributaries.

The renowned Arowhenua forest and cultivations stood at the junction of the Ōpihi River and Te Umu Kaha (Temuka River). Several kāika (settlements) were located near the lower reaches of the Ōpihi, sustained by the river's rich food supply. Foods gathered from the river included tuna (eel), inaka (whitebait), kōkopu (native trout), upokororo (grayling), kanakana (lampreys), pātiki (flounder), aua (yellow-eyed mullet), paraki (endemic smelt), panako (fish sp.) and pipiki (fish sp.).

The Ōpihi was the principal travel route from the Arowhenua region to Te Manahuna (the Mackenzie Basin), and this is reflected in the high density of rock art sites in the Ōpihi catchment. Together with the nearby catchments of Ōpūhaha River and Te-Ana-a-Wai (Tengawai) River, more than 250 rock art sites are located in the limestone outcrops.

A distinguishing feature of the Ōpihi River today is the lack of dams on the mainstem (although a tributary of the Ōpūhaha is dammed). This has two main effects on the river ecosystem, in particular fish communities. The first is that the fish communities are more likely to have diadromous species present (species with a sea phase in their lifecycle). The second effect is that fish are able to migrate between streams, allowing colonisation of previously dewatered streams.

The richness and variety of habitats are what make the Ōpihi catchment so valuable to Arowhenua Rūnanga. Many species depend on different aspects of the Ōpihi for different life stages, and they need to be able to move freely throughout the catchment. Many of the small headwater streams are seen by whanau as a refuge for taonga species. Species need space that is undisturbed by human activity. Intact inland streams are particularly important, as they offer unfragmented habitat for animals to move around in. However, undisturbed land is relatively scarce, and so it is important that links connect one fragmented patch to the next. These connections are called corridors and contribute to overall habitat connectivity. Important features in corridors include wetlands, rivers, riverbanks, pools, riffles, and vegetative cover, all of which the Ōpihi catchment should offer. Maintaining depth in many of the streams is seen as fundamental to maintaining connections.

The tributaries of the Ōpihi River are the:

The Tengawai River was incorrectly recorded in the 1860s by a surveyor and it has never been corrected. Te Ana-a-Wai is the correct spelling for the Tengawai River, which flows in an easterly

direction before joining the Ōpihi River at Pleasant Point. Ana is the Māori word for cave, and the name Te Ana-a-Wai derives from the water in the river originating from a series of caves in its upper catchment.

The Te Ana-a-Wai River was one of the principal travel routes that Ngai Tahu ancestors used to traverse from Arowhenua Marae to Te Manahuna (the Mackenzie Basin). The gorge in which Te Ana-a-Wai meanders through was once renowned as being a source of mahika kai (weka and tuna (eels)) with tuna numbers in particular found in abundance.

Numerous rock shelters are located in the limestone outcrops in the upper reaches of the river, with rock art images applied to the walls and ceilings in black, red and white pigments. Bone and stone tools have been found in some of the shelter floors, reflecting the day-to-day activities of the people that walked this important route.

The Waihi and Hae Hae te Moana Rivers originate in the Four Peaks Range of the Southern Alps, with a North Branch and South Branch of the Hae Hae Te Moana River merging to the north of Pleasant Valley. The Hae Hae Te Moana River runs south-east to join the Waihi River near Winchester. The combined river is called the Temuka River, which flows past Temuka to join the Ōpihi River shortly before it runs into the Canterbury Bight.

The Hae Hae Te Moana River and Waihi River are culturally significant to Arowhenua as a result of the high-water quality in the upper reaches of the catchment (as a result of being largely spring fed). The rivers are an important contributor to the Temuka River catchment as they provide a suitable habitat for the upland bully, canterbury galaxias, freshwater mussel, freshwater shrimp, and koura, which are known taonga species.

The Haehae Te Moana river provided historical nohoanga sites for rūnaka during their seasonal travels between Arowhenua and Te Manahuna/Mackenzie Basin.

Freshwater Mātaitai Reserve

The Freshwater Ōpihi Mātaitai Reserve² is considered relevant to the Timaru Proposed District Plan. The Ōpihi Mātaitai extends from the Ōpihi Lagoon up the Ōpihi River to a point to the south of Pearse Road, and includes the adjoining creeks, streams, and tributaries of the Ōpihi River.

The aspirations of Arowhenua are reflected in their application for the Ōpihi Mātaitai Reserve and that is to enable the ongoing management of their customary fishery. Whanau are concerned that, by the time rivers emerge onto the lowlands, the lowest places on the landscape, they have collected everything unhealthy that is unseen in the catchment, and this will eventually make mahika kai species toxic and not fit for human consumption. Often it is accepted that a lesser standard can be applied to the management of these waters – yet they are places valued so highly, and heavily used, by Arowhenua whanau.

Mātaitai reserves are declared under the Fisheries (Kaimoana Customary Fishing) Regulations 1998 or the Fisheries (South Island Customary Fishing) Regulations 1999, on application by tangata whenua. A mātaitai identifies an area that is a place of importance for customary food gathering and allows for the area to be managed by tangata tiaki/kaitiaki nominated by the tangata whenua.

Once a mātaitai reserve is established, commercial fishing is not allowed unless recommended by the tangata tiaki/kaitiaki. A tangata tiaki/kaitiaki can also recommend bylaws to assist with the sustainable management of fisheries resources in the mātaitai. These bylaws must be approved by the Minister of Fisheries and must apply generally to all individuals.

The Ōpihi Mātaitai was established in 2016. The Fisheries (Notification of Ōpihi Mātaitai Reserve and Tangata Tiaki/Kaitiaki) Notice 2014 2014/233 stated:

A mātaaitai reserve (to be known as the Ōpihi Mātaitai Reserve) has been declared under regulation 20 of the Fisheries (South Island Customary Fishing) Regulations 1999 over the following area:

- (a) the Ōpihi Lagoon area (including Milford Lagoon, the creeks running into the northern edge of Milford Lagoon that are located east and south of Prattley Road and White Road, and the lower reaches of the Orakipaoa Creek from the western edge of Milford Lagoon west to where that creek meets Milford Lagoon Road):*
- (b) the main Ōpihi River from the Ōpihi Lagoon area described in paragraph (a) and continuing west past the confluence with the Te Ana-a-Wai River (Te Ana a Wai) to a point along the Ōpihi River that is approximately 700 metres due south of the end of Pearse Road, including the tributary that runs into the Ōpihi River near Waipopo Road:*
- (c) the Te Ana-a-Wai River from the confluence with the Ōpihi River near Pleasant Point west to the Te Ana-a-Wai Bridge:*
- (d) the Te Umu Kaha (Temuka River) from the confluence with the Ōpihi River west and north until it becomes the Haehae Te Moana River and the Waihi River at Oxford Cross Road, including segments of the 2 creeks nearest the Arowhenua Marae that run west from this section of the Te Umu Kaha until they meet with Epworth Road and Station Road:*
- (e) the Haehae Te Moana River (including the headwater stream at Te Awa) from where it becomes the Te Umu Kaha River at Oxford Cross Road, north to the Toome Bridge:*
- (f) the rivers and streams (including the Waihi River and Dobies Stream) from Oxford Cross Road north within the boundaries of the Te Umu Kaha –Orari Highway, Geraldine Road, and Hanging Rock Road.*

Under section 66(2) of the RMA Regional Councils must consider existing mātaaitai reserves in the context of the issues of the region. In addition, the Canterbury Regional Policy Statement identifies mātaaitai reserves as an important part of the customs of Ngāi Tahu particularly those associated with mahika kai. So, while mātaaitai manage fisheries, Arowhenua consider there is a clear link between the tangata kaitiaki role in managing the species within a mātaaitai reserve, the ability to harvest healthy mahika kai species from within the mātaaitai and the management of the land within the catchment the mātaaitai is within. You cannot practice mahika kai if the water from which it is taken is polluted or it is unsafe to do so.

The Te Ana-a-Wai, Ōpihi and Te Uma Kaha Rivers are the principal mahika kai for Arowhenua and the freshwater mātaaitai reserve established on the Ōpihi River in 2016 to enhance and maintain the patiki fishery, ensure access for customary and recreational fishers who have less fishing capacity, and ensure the long-term future of the fishery is protected.

Traditionally, rights had to be maintained through continual usage. Through an annual cycle of fishing, gathering and hunting, whanau and hapū “kept the fires burning” in many locations across a large tract of the South Island. Inter-marriage between hapū and subsequent rights of inheritance and succession mean that for many Ngāi Tahu today they now hold rights to lands across much of the southern region.

Indigenous Fish Species - Spawning

The Ngāi Tahu Claims Settlement Act 1998 (NTCSA) sets out the numerous fish, plant, bird, mammal and coastal marine species within the catchment that are classed as taonga species. In the Māori language, "taonga" refers to something treasured or prized, and "taonga species" in New Zealand refers to indigenous species that are of significant cultural and ecological importance to Māori. These

species are central to the identity and wellbeing of many Māori communities, sustaining them for generations and transmitting customary knowledge

The key taonga species that Arowhenua gather on a seasonal basis throughout the Ōpihi Mātaitai and at the Ōpihi River mouth are:

- **Tuna / Longfin and Shortfin Eel** - (*Anguilla dieffenbachia* and *Anguilla australis*) – At Risk – Declining - Breeding tuna return to the sea between March and late May, and the elvers/glass eels return from the sea and migrate inland as they grow between October and late January.
- **Inanga / Whitebait** (*galaxias maculatus*, *galaxias brevipinnis*, *galaxias fasciatus*, *galaxias argenteus*, and *galaxias postvectis*) - At risk - Declining – spawning occurs between January and June. White baiting season is from 1 September to 30 October (inclusive).
- **Kanakana / Lamprey** (*Geotria australis*) – Threatened – Nationally Vulnerable – spawning occurs between late winter - early Spring to late Summer, but they are known to migrate up the rivers to inland areas from mid-July.

Arowhenua seek to protect these key taonga species particularly during spawning seasons. The Department of Conservation risk classification and spawning periods are outlined above.

Arowhenua note that the Tuna and Kanakana species in particular burrow within the riverbed material along the embankments of the river. Inanga also utilise the shallows and smaller braids to rest as they migrate upstream. There is a concern that jet boats travelling along the riverbed will create a wave action that pushes water up onto the dry riverbed, particularly as they navigate tight turns. Arowhenua would like to see evidence that this wave action does not impact the taonga species found within the river.

Suitable Flows

It is noted in the correspondence to AECL (dated 26 May 2025) that: “[F]rom a safety perspective, I note that the navigation safety bylaw requires that jet boats are only allowed to drive at a speed of 5 knots on these rivers. Also, jet boating would only be permitted in high flow conditions (10 cumecs or greater), which may reduce the potential for mahika kai gathering at these times”.

The River Flow Data obtained from Environment Canterbury indicates the average flow rate for the three rivers are as follows:

- | | |
|---|-------------------------|
| • Te Ana A Wai/Tengawai River at Manahune | 2.961 m ³ /s |
| • Waihi River at DOC Reserve | 0.577 m ³ /s |
| • Hae Hae Te Moana River at Glentohi | 0.648 m ³ /s |

Given the rivers are well below 10 cumecs for a significant portion of the year, it would suggest that the only times the rivers are suitable for jet boating activities would be when the rivers are in flood. During periods of heavy rain fall, the rivers can rise quickly and become muddy in appearance, which would disguise any debris being washed down stream. Consequently, it would not be safe to operate a jet boat during this heavy flow period.

Conclusion

AECL have reviewed the potential rule of enabling jet boats to operate on the Te Ana A Wai, Waihi and Hae Hae Te Moana Rivers.

It is noted that the three rivers form part of the Ōpihi Freshwater Mātaitai Reserve in which Arowhenua manage. The Mātaitai Reserve was put in place to enable Arowhenua to manage the fishery within the Ōpihi Catchment, enabling rūnaka to be on the riverbed throughout the year. The operation of jet boats on the rivers has the potential to harm taonga species during spawning periods

due to wave action as well as put rūnaka at harm if the recreational activity combines with mahika kai gathering.

Arowhenua are also concerned with jet boats operating during flood events due to the movement of debris down the river. The inability of jet boat drivers to see submerged material could cause accidents.