

## Appendix 2 – Recommended Amendments to Activities on the Surface of Water Chapter

### KEY

Red Underlined – Additions recommended as part of s42A Report

~~Red Strikethrough~~ – Deletions recommended as part of s42A Report

Green Underlined – Additions recommended as part of supplementary evidence

~~Green Strikethrough~~ – Deletions recommended as part of supplementary evidence

### ACTIVITIES ON THE SURFACE OF WATER - ASW

#### Overview

The Mataura River and its tributaries are internationally recognised for its brown trout angling experience and recognised in the Mataura River Water Conservation Order. These waterways also have cultural significance to both *mana whenua* and *tangata whenua* for a wide range of reasons including their associations with Ngāi Tahu cosmology and spirituality, cultural landscapes and tribal histories, mahinga kai values, and as transport routes. The special relationship Ngāi Tahu holds with the Mataura River is recognised by a statutory acknowledgment area, and customary rights are protected within the Mātaitai Reserve around the Mataura Falls/ Te Au Nui Pihapiha Kanakana. The Mataura River and its tributaries are also an important recreational resource and amenity feature for the wider community. Both floods and extremely low *river* flows are common occurrences and *climate change* forecasts predict an increase in both in the future. Protection works adjacent to the Mataura River have been constructed adjacent to urban areas, providing protection to Gore and Mataura and are frequently used as recreational areas within the *floodways*.

There are also a number of small *lakes* within the District. These have generally been created by mining and gravel removal activities and have potential for recreational use and/or habitat enhancement for *wetland* and *water* species.

While different user groups of the waterways perceive conflict between their activities from time to time, this is not at a scale that requires exclusive separation of activities or other management approaches. Motorised activities do however have the potential to impact on ~~the amenity of the waterways, and adjoining land other users, the amenity of the surrounding environment, and the natural environment values associated with the district's rivers. The provisions of this chapter seek to manage these adverse effects, while also providing for the sustainable use of motorised craft.~~

Discharges to water, taking and using water, and structures and bed disturbance activities in river beds may require resource consent approval from Environment Southland. In addition, the Southland Regional Council Navigation Safety Bylaws ~~2009~~ apply to the Gore District and are also administered by Environment Southland.

## Objectives

- ASW-O1 Activities on the surface of *water* and associated facilities and *structures*:
1. contribute to sustainable recreational, social and economic opportunities for the community;
  2. maintain and enhance the values associated with *waterbodies* on which surface *water* activities take place; and
  3. are resilient to the *effect of climate change*.
- ASW-O2 *Mana whenua* and *tangata whenua* are able to express their cultural relationships with the waterways and continue to practice various cultural activities or rituals without being unreasonably restricted by other activities and their associated facilities or *structures*.

## Policies

- ASW-P1 Facilitate and promote the recreational and cultural use of *waterbodies*.
- ASW-P2 Prioritise the health and safety of those undertaking non-commercial and non-motorised recreational and cultural activities within *waterbodies* and their margins.
- ASW-P3 Enable the location of *infrastructure* and equipment used for monitoring or testing, where there is a *functional need* or operational need for this to be located on or above the surface of *waterbodies*.
- ASW-P4 Manage the *effects* of activities undertaken on the surface of *water* to maintain or enhance:
1. the natural character, landscape values and amenity of the *waterbody* and its margins;
  2. *water* quality and quantity;
  3. aquatic and riparian ecosystems, wildlife habitats and indigenous *biodiversity*;
  4. public and customary access, customary rights, use and enjoyment of that locality; and
  5. Ngāi Tahu cultural values including those listed in MW-2.3.
- ASW-P5 Limit commercial surface *water* activities to those that are compatible with:
1. the values of that *waterbody*, including:

- (a) the natural values and amenity of the *waterbody* and its margins;
  - (b) wildlife habitats and indigenous *biodiversity*;
  - (c) public use and enjoyment of that locality; and
  - (d) Ngāi Tahu cultural values including those listed in MW-2.3.
2. the surrounding land uses and established *infrastructure*; and
  3. protected customary rights and Māori cultural practices and activities.

- ASW-P6 Limit activities, *structures* and *infrastructure* on or above the surface of *waterbodies* to ensure these are consistent with the provisions of the Maitaiwa River Water Conservation Order, and that their location:
1. maintains the flow of *water* in that *waterbody*;
  2. maintains a safe environment for surface *water* activities, including the navigation of watercraft; and
  3. is resilient to the *effects* of *climate change*.

## Notes

|               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|---------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Note 1</b> | <b>Provisions in Other Chapters</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|               | The provisions in this chapter apply in addition to the provisions of the other chapters in the District Plan and the plan should be read as a whole. This chapter also implements other chapters in the District Plan that do not have specific rules such as Sites and Areas of Significance to Māori and Mana Whenua.                                                                                                                                                                                                                                    |
| <b>Note 2</b> | <b>Water Conservation (Maitaiwa River) Order 1997</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
|               | The Maitaiwa River and its tributaries are subject to the Maitaiwa River Water Conservation Order 1997. The order refers to outstanding fisheries and angling amenity features and includes various provisions to preserve and protect these features including a minimum flow regime, standards that must be met by any <i>discharges</i> into the <i>waters</i> and a prohibition on the construction of any dam on any of these waterways.                                                                                                               |
| <b>Note 3</b> | <b>Maitaiwa River Mātaitai Reserve</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
|               | The Maitaiwa River Mātaitai Reserve is established under the Fisheries Act 1996 and applies to a section of the Maitaiwa River up and downstream of the Maitaiwa Falls/ Te Au Nui Pihapiha Kanakana. The reserve protects Ngāi Tahu customary rights and all <i>commercial fishing</i> is prohibited within the reserve. The Maitaiwa River Mātaitai Reserve Bylaws applies. Under the bylaws no person, with the exception of customary fishing authorised by Tangata Tiaki/Kaitiaki, may take or possess Lamprey, Shortfin or Longfin eel; or use, set or |

possess any fyke net.

#### Note 4 Statutory Acknowledgement

The Maitara River and its tributaries are a statutory acknowledgment area in terms of the Ngāi Tahu Claims Settlement Act 1998 to recognise Ngāi Tahu's cultural, spiritual, historic, and traditional association to the Maitara River.

### Rules

|                                     |                                                                                                                                                                                                                              |                                                                    |
|-------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|
| ASW-R1                              | The establishment, operation, maintenance and upgrading of any navigational aid or <i>sign</i> , either temporary or permanent, required by Maritime New Zealand, Environment Southland or the Gore District Council.        |                                                                    |
| ASW-R2                              | The establishment, operation, maintenance and upgrading of any equipment, measuring apparatus or similar device for the purpose of carrying out inspections, surveys, investigations, tests, measurements or taking samples. |                                                                    |
| ASW-R3                              | Any activities associated with the ongoing operation, maintenance, or upgrading of any lawfully established <i>infrastructure</i> .                                                                                          |                                                                    |
| ASW-R4                              | The use of motorised watercraft used to undertake the statutory functions of a government department or local government body.                                                                                               |                                                                    |
| Surface of all Water <b>B</b> odies | ASW-R1 to ASW-R4<br>Activity status: Permitted                                                                                                                                                                               | Activity status where compliance is not achieved: N/A              |
| ASW-R5                              | Commercial Activity                                                                                                                                                                                                          |                                                                    |
| Surface of all Water <b>B</b> odies | Activity status: Permitted<br>Where:<br>1. The <i>commercial activity</i> is guided fishing that does not utilise any motorised watercraft.                                                                                  | Activity status where compliance is not achieved:<br>Discretionary |
| ASW-R6                              | Any activity that was lawfully established before the date this District Plan became operative                                                                                                                               |                                                                    |

|                                      |                                                                                                                                   |                                                                               |
|--------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|
| Surface of all<br><b>Waterbodies</b> | <b>Activity status:</b> Permitted<br><br><b>Where:</b><br><br>1. The scale, intensity, and character remains the same or similar. | <b>Activity status where compliance is not achieved:</b><br><br>Discretionary |
|--------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|

|               |                                             |
|---------------|---------------------------------------------|
| <b>ASW-R7</b> | <b><i>Sport and Recreation Activity</i></b> |
|---------------|---------------------------------------------|

|               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |                                                                               |
|---------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|
| Mataura River | <b>Activity status:</b> Permitted<br><br><b>Where:</b><br><br>1. The activity does not utilise any motorised watercraft; or<br><br>2. <u>The activity uses motorised watercraft within that part of the Mataura River shown on the District Plan Maps within the area of water 300 metres long and 100 metres wide, 4.8 kilometres downstream from Gore at Beattie's Beach; or</u><br><br>3. The <u>activity uses</u> <del>use of</del> motorised watercraft <u>at a speed of less than 5 knots</u> on any part of the Mataura River (excluding its tributaries); <u>or</u><br><br>4. <u>The activity uses motorised watercraft travelling at more than 5 knots, on any part of the Mataura River (excluding its tributaries)</u> where:<br>(a) the activity, including <u>casual boating and</u> events organised by <del>member clubs of the NZ Jet boating Association</del> , <u>Jet Boating New Zealand Incorporated or member clubs or branches</u> occurs during the period 1 August to 30 September | <b>Activity status where compliance is not achieved:</b><br><br>Discretionary |
|---------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|

*Note: This activity requires approval under the Southland Regional Council Navigation Safety Bylaws 2009 (revised 2015) administered by Environment Southland.*

~~(b) at other times, during the period 1 October to 31 July, motorised craft must not travel at a speed that exceeds 5 knots.~~

~~Except that:~~

~~Within that part of the Mataura River shown on the District Plan Maps within the area of water 300 metres long and 100 metres wide, 4.8 kilometres downstream from Gore at Beattie's Beach; the activity may be undertaken at any time~~

#### ASW-R8 All other activities

Surface of all  
**Waterbodies**

**Activity status:** Discretionary

1. Any activities and associated facilities and *structures* on the surface of *waterbodies* not provided for in the list of rules.

**Activity status where compliance is not achieved:** N/A

#### ASW-R9 Damming waters

Mataura River,  
Otamita  
Stream, and  
tributaries to  
the Mataura  
upstream of  
Otamita  
Stream

**Activity status:** Prohibited

Where:

1. The construction and use of any *structure* that has the *effect* of damming the *waters* of Mataura River, Otamita Stream. or any other tributaries of the Mataura River upstream of its confluence with the Otamita Stream.

**Activity status where compliance is not achieved:** N/A

