

PROPOSED GORE DISTRICT PLAN SECTION 32 REPORT

PUBLIC ACCESS



Table of Contents

1. Executive Summary	3
2. Overview and Purpose	4
2.1 Introduction to the resource management issue(s)	4
2.2 Purpose of the report.....	4
3. Statutory and Policy Context	4
3.1 Resource Management Act.....	4
3.2 National Policy Statements.....	6
3.3 National Environmental Standards.....	6
3.4 National Planning Standards.....	7
3.5 Regional Policy Statement	8
3.6 Regional Plans	9
3.7 Iwi Environmental Management Plan(s)	9
3.8 Other Legislation and Policy Documents.....	10
3.9 Other Local Policies, Strategies, Guidelines and Plans	11
3.10 Climate Change.....	11
4. Resource Management Issue Analysis	12
4.1 Background.....	12
4.2 Operative Plan Approach	13
4.3 Effectiveness of Operative Plan	13
4.4 Analysis of Best Practice	14
5. Scale and Significance	14
5.1 Scale and Significance Evaluation	14
5.2 Evaluation Summary	15
6. Consultation	16
6.1 Overview.....	16
7. Proposed Plan Provisions.....	18
7.1 Strategic Direction.....	18
7.2 Objectives and Policies and Definitions	18
8. Evaluation of Objectives	21
9. Evaluation of Options to Achieve the Objectives.....	22
9.1 Evaluation	22
9.2 Summary of Preferred Options.....	25

List of Abbreviations

Resource Management Act 1991	RMA or 'the Act'
Gore District Council	GDC or 'the Council'
Operative District Plan	ODP
Proposed District Plan	PDP
National Planning Standards 2019	PS
Southland Regional Policy Statement 2017	SRPS
National Policy Statements	NPS
National Policy Statement for Indigenous Biodiversity 2023	NPS-IB
National Policy Statement for Freshwater Management	NPS-FM
National Environmental Standards	NES
National Environmental Standard for Freshwater 2020	NES-F
Activities on the Surface of Water	ASW
Permitted Activity	PA
Controlled Activity	CA
Restricted Discretionary Activity	RDA
Discretionary Activity	DA
Non-complying Activity	NCA

1. Executive Summary

Section 32 of the Act requires objectives in plan change proposals to be examined for their appropriateness in achieving the purpose of the Resource Management Act 1991 ('the Act' or 'the RMA'), and the policies and methods of those proposals to be examined for their costs, benefits, efficiency, effectiveness, and risk in achieving the objectives. The analysis set out in this report is to fulfil the obligations of the Council under s32 of the Act.

This section 32 evaluation report relates to the evaluation of options for the management of Public Access in the Gore District Plan. Objectives and policies for managing public access are located within Part 2 – District Wide Matters in the Natural Environmental Values section as required by the National Planning Standards. Methods such as rules and standards for implementing public access are located within the Subdivision Chapter and development setbacks for streams and rivers are located within the underlying zones.

The proposed objectives are evaluated to ensure they are the most appropriate to achieve the purpose of the RMA, and the cost and benefits of the methods to achieve the objectives are assessed against other reasonable options, as per s32(1)(b) of the RMA. This report evaluates the Operative District Plan (ODP) and the Proposed District Plan (PDP) provisions to ascertain that they are the most efficient and effective means of recognising and providing for the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers as a matter of national importance (s6(d)) in achieving the purpose of the Act.

The Public Access Chapter will assist the Council to fulfil its statutory functions and responsibilities as required by the Act through the following proposed objective, policies, and rules:

Objectives and policies of the proposed chapter seek:

- To protect and implement public access to and along the districts water bodies, with high recreational, scenic, Ngāi Tahu cultural or amenity values.
- The expansion of the Districts pathway network to provide public access to natural environments, to enhance mana whenua access to mahinga kai sites, and to enhance recreational opportunities and improve the Gore District's reputation as a trout fishing destination.
- Avoid adverse effects on natural character, indigenous biodiversity, historic heritage, cultural and landscape values and health and safety.

Rules for implementing public access are located within the Subdivision Chapter and development setbacks are located within the underlying zones, these implement the following:

- To provide public access and align with RMA Section 230 requirements, specifically, subdivision where any allotment of less than 4 hectares is created, an esplanade reserve 20 metres in width shall be set aside along the bank of any river or along the margin of any lake.
- Zone standards that require any building or structure is setback from the bank of any river or stream, 20m for higher order rivers or streams, 10m from middle order rivers or streams and 5m for lower order streams.

Key changes from the Operative District Plan include the following:

- A standalone chapter to align with the National Planning Standards
- New objectives and policies for Public Access to provide for stronger guidance, including clear direction on public access expectations and management, and to reflect the purpose of the act.
- Revised rules within the subdivision chapter and underlying zones to better ensure public access provision.

- Increased protection for the district's rivers and streams through development setbacks.

2. Overview and Purpose

This s32 evaluation report should be read in conjunction with the s32 Overview and Urban Form and Development, which also includes an overview of the s32 legislative requirements, the methodology and approach to the s32 evaluations and the process that the Council has undertaken to date through its District Plan Review, including consultation and engagement.

2.1 Introduction to the resource management issue(s)

The Public Access Chapter provides a regulatory framework for the provision of public access to and along waterways. The provisions seek to address the following issues:

Issue 1 - The Operative District Plan does not adequately provide for the establishment of public access to and along water bodies.

Issue 2 - The Operative District Plan does not adequately provide for mana whenua customary access to mahinga kai sites such as the Mataura River mātaimai and Mataura Falls/Te Au Nui Pihapiha Kanakana.

2.2 Purpose of the report

The purpose of this report is to provide an evaluation of the proposed provisions in accordance with the requirements of Section 32 of the RMA 1991.

This report sets out the statutory and policy context for public access, the key resource management issues, specific consultation, and approach to evaluation on this topic to decide on the proposed provisions. The report also includes a review of the existing plan provisions and an evaluation of alternative methods to achieve the purpose of the Resource Management Act (RMA) in relation to the public access topic.

An assessment of the scale and significance of the provisions will inform the level of detail included in this report.

3. Statutory and Policy Context

3.1 Resource Management Act

In carrying out a s32 analysis, an evaluation is required of how the proposal achieves the purpose and principles contained in Part 2 of the RMA.

Section 5 sets out the purpose of the RMA, which is to promote the sustainable management of natural and physical resources.

Sustainable management means *managing the use, development, and protection of natural and physical resources to enable people and communities to provide for their social, economic, and cultural wellbeing and for their health and safety, while –*

- (a) *sustaining the potential of natural and physical resources (excluding minerals) to meet the reasonably foreseeable needs of future generations; and*
- (b) *safeguarding the life-supporting capacity of air, water, soil, and ecosystems; and*

(c) avoiding, remedying, or mitigating any adverse effects of activities on the environment.

In achieving this purpose, authorities also need to recognise and provide for the matters of national importance identified in s6, have particular regard to other matters referred to in s7 and take into account the principles of the Treaty of Waitangi referred to in s8.

Section 6

The s6 matters relevant to this topic are:

- a) the preservation of the natural character of the coastal environment (including the coastal marine area), wetlands, and lakes and rivers and their margins, and the protection of them from inappropriate subdivision, use, and development:
- b) the maintenance and enhancement of public access to and along the coastal marine area, lakes, and rivers:
- c) the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga:
- d) the protection of protected customary rights:

Subdivision and development along rivers can have an effect on public access and the values associated with the waterbody, including their natural character. and these can also be valued as landscape features. Many of the waterways in the district also have cultural significance recognised by statutory acknowledgment. In addition, customary rights are protected within the Mataura River Mātaitai Reserve located on a section of the Mataura River around Mataura Falls/ Te Au Nui Pihapiha Kanakana. The provisions need to recognise and provide for these matters.

Section 7

The s7 matters that are relevant to this topic are:

- (a) kaitiakitanga:
- (aa) the ethic of stewardship:
- (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:

Ngāi Tahu are mana whenua of the district and their kaitiakitanga is recognised through the statutory acknowledgment that applies to the Mataura River and its tributaries and the Mataura River Mātaitai Reserve. The rivers and lakes of the district provide significant amenity values for the community and the adjoining use and development can affect the quality of the environment. The Mataura River is protected by a Water Conservation Order that recognises the river as a fishing and angling amenity feature, in particular for trout. The effects of climate change are predicted to impact water quality and quantity, as well as the frequency and severity of flooding events. The provisions need to have regard of these matters.

Section 8

Section 8 of the RMA requires the Council to take into account the principles of the Treaty of Waitangi (Te Tiriti o Waitangi). Tangata whenua, through iwi authorities have been consulted as part of the review process and the obligation to make informed decisions based on that consultation is noted.

Section 230

Section 230 of the RMA sets out the requirements for the provision of esplanade reserves, specifically the requirement of an esplanade reserve of 20 metres in width, set aside from an allotment of less than 4 hectares, to be established adjoining the bank of a river or lake. A

river being a river with an average width of 3m or where a river flows through an allotment.
A lake being a lake with an area of 8 hectares or more.

Mataura River Water Conservation Order

Water Conservation Orders are provided for under Part 9 of the RMA. Their purpose is to recognise outstanding amenity or intrinsic values of the water bodies and are the strongest form of protection of water under the RMA. A water conservation order can prohibit or restrict a regional council issuing new water and discharge permits. Regional policy statements, regional plans and district plans must not be inconsistent with the provisions of a Water Conservation Order.

The Water Conservation (Mataura River) Order 1997 refers to outstanding fisheries and angling amenity and covers the Mataura River, the Waikaia River, Otamita Stream and all tributaries of the Mataura River above the confluence with the Otamita Stream. The order includes various provisions to preserve and protect these features including a minimum flow regime, standards that must be met by any discharges into the waters and a prohibition on the construction of any dam on any of these waterways.

3.2 National Policy Statements

The Section 32 - Overview Evaluation Report includes details and a brief assessment of all National Policy Statements (NPS).

The following NPS are relevant to public access:

- NPS for Freshwater Management 2020

The implementation of the National Policy Statement for Freshwater Management 2020 (NPS FM) is primarily a regional council function, however territorial authorities must adopt an integrated approach to freshwater management in that the whole environment is connected. The fundamental concept of the NPS is 'Te Mana o te Wai' that refers to the importance of water and recognises that protecting the health of freshwater protects the health and well-being of the wider environment. Every territorial authority must include objectives, policies, and methods in its district plan to promote positive effects, and avoid, remedy, or mitigate adverse effects (including cumulative effects), of urban development on the health and well-being of water bodies, freshwater ecosystems, and receiving environments.

3.3 National Environmental Standards

The Section 32 - Overview Evaluation Report includes details and a brief assessment of all National Environmental Standards (NES).

The following NES are relevant to Public Access:

- NES for Freshwater 2020

The National Environmental Standards for Freshwater 2020 (NES FW) was introduced to protect wetlands and streams and to improve farming practices. The NES FW have regulations relating to changes to wetlands and rivers, intensive winter grazing, intensification, stockholding areas and stock exclusion.

3.4 National Planning Standards

The National Planning Standards (PS) 2019 requires a more bespoke approach to planning zones than the current GDP. This includes a clearer centre hierarchy, rural settlement zones, and a wider range of residential, industrial, and rural zones. The PS also provides the structure and form for the Plan content along with definitions and mapping criteria.

The following aspects of the National Planning Standards are relevant to this topic:

- The unique identifier for Public Access is PA
- The National Planning Standards require that provisions to maintain and enhance public access to and along water bodies must be located within the Public Access Chapter and included within Part 2 of the District Plan - District Wide Matters - Natural Environmental Values.
- Definitions include:

Amenity values - means those natural or physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes.

Effect - has the same meaning as in section 3 of the RMA and includes—

- a) any positive or adverse effect; and
- b) any temporary or permanent effect; and
- c) any past, present, or future effect; and
- d) any cumulative effect which arises over time or in combination with other effects

regardless of the scale, intensity, duration, or frequency of the effect, and also includes—

- e) any potential effect of high probability; and
- f) any potential effect of low probability which has a high potential impact.

Environment - has the same meaning as in section 2 of the RMA and includes—

- a) ecosystems and their constituent parts, including people and communities; and
- b) all natural and physical resources; and
- c) amenity values; and
- d) the social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) or which are affected by those matters.

Esplanade reserve - has the same meaning as in section 2 of the RMA

means a reserve within the meaning of the Reserves Act 1977—

- a) which is either—
 - i. a local purpose reserve within the meaning of section 23 of that Act, if vested in the territorial authority under section 239; or
 - ii. a reserve vested in the Crown or a regional council under section 237D; and
- b) which is vested in the territorial authority, regional council, or the Crown for a purpose or purposes set out in section 229.

Esplanade strip - has the same meaning as in section 2 of the RMA

means a strip of land created by the registration of an instrument in accordance with section 232 for a purpose or purposes set out in section 229

Lake - has the same meaning as in section 2 of the RMA

means a body of fresh water which is entirely or nearly surrounded by land.

River - has the same meaning as in section 2 of the RMA

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).

Waterbody - has the same meaning as in section 2 of the RMA (as set out in the box below)
means fresh water or geothermal water in a river, lake, stream, pond, wetland, or aquifer, or any part thereof, that is not located within the coastal marine area.

3.5 Regional Policy Statement

The Southland Regional Policy Statement 2017 sets out the framework and priorities for resource management in the region. The RPS identifies the regionally significant issues around the management of the Region's natural and physical resources and sets out what needs to be achieved (objectives) and the way in which the objectives will be achieved (policies and methods). The PDP is required to give effect to the regional policy statement as required by section 75(3) of the RMA.

Relevant provisions include:

Chapter 3 - Tangata Whenua

For Ngāi Tahu as tangata whenua, the natural environment (including lands, coasts, water, air, and biodiversity) and how they engage with it, is a critical component of their identity as a people and in maintaining their culture. The concept of kaitiakitanga (guardianship) is central to Ngāi Tahu and is key to their role as mana whenua.

Local government in Southland have recognised the importance in establishing, and the need to maintain, a close working relationship with Ngāi Tahu to ensure that their views are heard and carefully considered in decision-making.

Territorial authorities will establish and maintain provisions in district plans that safeguard identified tangata whenua environmental and cultural values and resources from inappropriate subdivision, use or development, including recognising and providing for ancestral lands, wāhi tapu, wāhi taonga and recognised customary sites, activities, and statutory acknowledgements.

Specifically territorial authorities are required to sustain or improve (where degraded) accessible mahinga kai and other customary resources associated with the district's important cultural waterways.

Chapter 4 - Water

The Water chapter relates to freshwater and has three parts: Water Quality, Water Quantity and Beds of Rivers and Lakes.

These are generally Regional Council functions, however the SRPS highlights that both regional and district plans are required to identifying priority areas for public access and improving access through mechanisms such as esplanade reserves and strips, and access strips on subdivision consents. Other methods, such as investigations into specific values, provision of information on good practice for gravel removal activities and collaboration between all of the region's local authorities, with regard to public access provisions, will support the role of regional and district plans.

3.6 Regional Plans

Environment Southland has prepared a number of regional plans, these include:

- Regional Air Plan 2016
- Effluent Land Application Plan 1998
- Regional Water Plan 2010

Environment Southland's proposed Southland Water and Land Plan was made partially operative following a council meeting in January 2021.

The provisions of the Environment Southland Regional Plans are summarised within the Section 32 – Overview Evaluation Report. To date most district plans have relied solely on the Regional Policy Statements (RPS) to provide strategic direction as district plans must give effect to RPS's in accordance with RMA requirements.

Environment Southland is responsible for activities relating to freshwater management, including water quality and quantity. This includes water takes, discharges to land and water and activities undertaken in the beds of lakes and rivers, including structures, damming and diversions. All of which can result in positive or negative impacts on public access.

3.7 Iwi Environmental Management Plan(s)

'Te Tangi a Tauira – The Cry of the People' the Ngai Tahu Ki Murihiku Natural Resource and Environmental Management Plan identifies a broad range of relevant matters when considering where and how Gore grows and develops. In particular, there is a desire to:

- Limit the impacts of climate change on indigenous species and ecosystems and the risks of natural hazards by appropriately managing urban development and providing for sustainable energy and transport systems.
- Protect sites of significance and indigenous biodiversity areas along with appropriate management of water.
- Limit impacts of industrial activity and subdivision by involving iwi in decision making processes and managing land use, building and water issues
- Providing appropriate infrastructure management.

'Te Tāhū o Te Whāriki', the Ngāi Tahu Climate Change Strategy, identifies a need to assess future commercial risks, protect wahi tapu, mahinga kai and other taonga, prepare plans to relocate Marae and Runānga facilities threatened by increasing hazards, as well as influence agencies to develop climate change responses.

3.8 Other Legislation and Policy Documents

The following Acts and regulations also have relevance to the topic:

- Reserves Act 1977
- Fisheries Act 1996
- Fisheries (South Island Customary Fishing) Regulations 1999
- Local Government Act 2002
- Ngāi Tahu Claims Settlement Act 1998
- Conservation Act 1987
- Freshwater Fisheries Regulations 1983

The Reserves Act 1977 applies to all public land that has been vested or gazetted under the Act. As a mandatory requirement of this Act, management plans should be prepared for all recreation reserves to provide a framework for future management decisions relating to their maintenance, use and development. Recreation reserves, primarily around Gore and Mātāura, provide public access to the Mātāura River.

The Mātāura River Mātaitai Reserve is established under the Fisheries Act 1996 and Fisheries (South Island Customary Fishing) Regulations 1999. It is intended to provide practical recognition of the rights guaranteed to tāngata whenua under the Treaty of Waitangi with the purpose of recognising and providing for customary management practices and food gathering. The Mātaitai Reserve, as illustrated on the map, encompasses the waters of the Mātāura River within:



(a) the northern boundary being a line in an easterly direction across the Mātāura River (from a point at 46°10.45'S and 168°53.67'E on the eastern bank to a point at 46°10.45'S and 168°53.87'E on the western bank) about 500 metres upstream of the Mātāura tannery; and

(b) the southern boundary being a line in a westerly direction across the Mātāura River (from a point at 46°13.96'S and 168°50.97'E on the western bank to a point 46°13.96'S and 168°51.03'E on the eastern bank) at a bend in the Mātāura River about 1 kilometre downstream of Shanks Road.

The Mātāura River Mātaitai Reserve Bylaws apply within the reserve. Under the bylaws all commercial fishing is prohibited within the reserve, and no

person, with the exception of customary fishing authorised by Tangata Tiaki /Kaitiaki, may take, or possess Lamprey, Shortfin or Longfin eel or set fyke nets.

The Ngāi Tahu Claims Settlement Act 1998 was enacted to achieve settlement of historical claims against the Crown. The Ngāi Tahu Claims Settlement Act 1998, amongst other things, identifies taonga species, and establishes tōpuni, statutory acknowledgements, dual place names and nohoanga sites. These instruments recognise the special association of Ngāi Tahu with these areas and resources and assist with Ngāi Tahu participation in processes under the Act and the Local Government Act 2002 (LGA). A Statutory Acknowledgment area applies to recognise Ngāi Tahu's cultural, spiritual, historic, and traditional association to the Maitai River and its tributaries.

3.9 Other Local Policies, Strategies, Guidelines and Plans

Parks, Recreation and Facility Strategy 2013

The strategy sets out provisions and standards for different types of parks. Linkage Parks are referred to, and further described, in the NZRA Parks Categories 2011 as Recreation and Ecological Linkages.

Linkage Parks are usually linear in shape and provide an important role in providing access to and along waterways. They generally have a low level of development and maintenance. Examples include areas along the Maitai River.

Gore District Trails Feasibility Strategy 2017

The Gore District Trails Feasibility Study undertaken in 2017 also provides a basis for the development of public access corridors linking open spaces and other public areas. The report highlights the anticipated health, wellbeing benefits, tourism, economic benefits, social and cultural benefits from public access to waterways.

District Growth Strategy – Gore Economic and Social Background Report

The Maitai River is highlighted as one of the most important recreation resources for the district. However, the report expresses a concern about a reduction in recreation participation and a drop in fishing days downstream of Gore (observed for the period between 2001-2008). It is speculated that this drop may be related to a perception of declining water quality, although it may be more accurately linked to low summer flows.

3.10 Climate Change

The effects of climate change have been added to other matters decision makers should have particular regard to (RMAs7(i)).

In accordance with 2020 RMA amendments, by 2022 District Plans will not only need to have regard to the effects of climate change (adaptation) but also climate change mitigation and national adaptation and emission reduction plans prepared under the Climate Change Response act 2002. A compact urban form with most activities located around good transport connections and that takes account of the changing nature of natural hazards will help achieve these requirements. Further guidance will be provided in relation to Climate change as emission targets and RMA reform progresses.

The effects of climate change are predicted to impact water quality and quantity, as well as the frequency and severity of flooding events. The provisions need to consider the resilience and health and safety aspects of public access to waterways. Broader mitigation and adaptation measures are on a higher strategic level and are covered in the Section 32 - Overview and Urban Form and Development Evaluation Report.

4. Resource Management Issue Analysis

4.1 Background

Section 2.1 of this report identifies two resource management issues which the PDP public access chapter provisions address:

Issue 1 - The Operative District Plan does not adequately provide for the establishment of public access to and along water bodies.

The maintenance and enhancement of public access to and along waterbodies is recognised in the Act as a matter of national importance. Maintenance and enhancement of public access to the natural environment is also recognised by Council as contributing to the well-being of people and communities, as well as being vital to the ability of mana whenua to express and practice their culture.

The Council plays an important role in meeting these needs through protecting access to waterbodies and through ensuring that the district's pathway networks connect open spaces and other public areas. Maintenance and public access to the rivers and streams, mana whenua access to mahinga kai sites, and access for licensed sports fishers to the rivers, streams and their margins is considered a priority.

While there is some provision of public access to the district's waterbodies, many of the district's rivers and streams are cut off due to private property boundaries and fencing. While private property rights and health and safety issues are a consideration, tools such as esplanade reserves through subdivision approval, development setbacks from waterbodies, negotiating for access strips and riparian planting, have been underutilised.

To date the Operative District Plan provisions have not resulted in any esplanade reserves through subdivision consenting. An increased uptake and area requirements in esplanade reserves through subdivision provisions, would be an effective way of addressing this issue. In addition, there has been physical development in close proximity to rivers, in particular the banks of the Maitai River. River and stream setbacks throughout the underlying zone provisions would be an effective way of avoiding further development within the river margins.

Issue 2 - The Operative District Plan does not adequately provide for mana whenua customary access to mahinga kai sites such as the Maitai River mātaihai and Maitai Falls/Te Au Nui Pihapiha Kanakana.

The Maitai (Maitai River) has significant cultural values for mana whenua. It is considered an ancestral river for local whānau, and has fed and guided generations of Waitaha, Ngāti Māhōe and Ngāti Tahu. The Maitai River is formally recognised through a Statutory Acknowledgement within the Ngāti Tahu Claims Settlement Act 1996. The River

and its tributaries are areas with strong connections to Ngāi Tahu mahinga kai practices, which are a key vehicle for expressing and perpetuating Ngāi Tahu culture and identity.

Historical development up to the river margins, particularly around the Maitara Falls has restricted mahinga kai access, disrupting mana whenua's ability to undertake important cultural practices and maintain their connection to the River. As outlined above, increased uptake in esplanade reserves through the subdivision consenting process along with development setbacks from the banks of rivers and streams would be an effective way to help address this issue.

4.2 Operative Plan Approach

Chapter 8 of the Operative District Plan provides for objectives, policies and rules relating to public access. Specifically, the following:

- Objective (4) To provide public access to the Maitara River and access for licensed sports fishers to the Waikaka Stream
- Policy (6) Provide public access to and along the Maitara River by way of esplanade strips.
- Policy (7) Provide, subject to appropriate conditions, licensed sports fisher access along the Waikaka Stream by way of esplanade strips at the time of subdivision.

In addition, the subdivision rules provide for esplanade reserves and strips for subdivisions less than 4 hectares adjacent to the Maitara River and Waikaka Stream. Specifically, esplanade strips of 10m in width within the allotment along the bank of the waterway. The Waikaka Stream provision does limit access to angling purposes only.

4.3 Effectiveness of Operative Plan

Issue	Comment	Response
No esplanade reserves created over the life of the plan.	Rules are also more lenient than nearby councils or the default within the RMA. Possible lack of development (4 hectare subdivisions) requiring esplanade reserves.	Esplanade reserve expanded to 20m as per RMA default. Upzoning of land may result in more subdivisions triggering this provision.
Objective seeks to provide public access to the Maitara, and only angling access to the Waikaka. Methods do not achieve this, given no additional public access has resulted.	The rule of 10m esplanade reserve provision is half the size of the default under the RMA and that required by neighbouring councils. Additionally, the rules only apply to the Maitara River and only for angling purposes for the Waikaka, meaning a broader public	Esplanade reserve requirement expanded to section 230 of the RMA, being 20m for all subdivisions resulting in lots less than 4 hectares adjoining all rivers.

	access network is not provided for.	
--	-------------------------------------	--

In summary the objectives and policies of the Operative Plan appear to seek to provide public access to and along the district's waterways, however this has not been achieved over the life of the plan. The rules that seek to implement the objective are more lenient than the default under the RMA, and rules established by nearby councils.

4.4 Analysis of Best Practice

A review of current practice in respect of this matter has been undertaken, together with a review of the following District Plans:

- Southland District - 2018
- Invercargill City Council - 2019

Southland District

This plan was chosen because it covers areas adjoining the Gore District, the Maitava River cross the boundary of the Southland and Gore Districts and some consistency is therefore desirable. The provisions relating to public access to waterways are considered. The objectives seek to enable public access and recreational opportunities. Policies include maintenance or enhancing of public access through the subdivision process. And the provision of esplanade mechanisms to achieve this. The plan requires public access at the time of subdivision in accordance with section 230 of the RMA.

Invercargill City Council

This plan was chosen because it is the third District within the Southland region. The provisions relating to public access to waterways are considered. The objectives seek to maintain and enhance recreational opportunities and improve public access to rivers and lakes. Policies include allowance for recreational activities, maintain and enhance public access, and to liaise with Environment Southland. The plan requires public access at the time of subdivision in accordance with section 230 of the RMA.

Summary

The Invercargill City and Southland District Plans have a relatively consistent approach to maintaining and enhancing public access through the subdivision process and esplanade mechanisms in accordance with section 230 of the RMA. To achieve regional consistency this approach is also proposed for the Gore District Plan.

5. Scale and Significance

5.1 Scale and Significance Evaluation

Section 32(1)(c) of the RMA requires that this report contain a level of detail that corresponds to the scale and significance of the environmental, economic, social, and cultural effects that are anticipated from the implementation of the proposal.

	Comments	Assessment		
		Low	Medium	High
Degree of change from the Operative Plan	The ODP has a limited esplanade requirements for subdivision and land development setbacks around waterways, the PDP essentially builds on this approach.		x	
Scale of effects – geographically (local, district wide, regional, national).	Streams and rivers extend across the whole district, although most are located in the rural areas. The streams and rivers range from small creeks to the Mataura River and have varied significance	x		
Effects on matters of national importance (s6 RMA)	A range of matters of national importance apply directly or indirectly to rivers and streams, and of particular relevance to public access is s6(d)		x	
Scale of effects on people (how many will be affected – single landowners, multiple landowners, neighbourhoods, the public generally, future generations?).	Rivers and streams extend across the whole district but are primarily located in rural areas. The setback provision only apply to development in riparian margins, and the esplanade reserve provision only to those undertaking subdivision of under 4 hectares. The access to rivers are however of significance to the whole community.		x	
Scale of effects on those with specific interests, e.g., Tangata Whenua	Tangata whenua has a strong interest in customary access to waterways, and streams and rivers have economic and social significance to the community		x	
Degree of policy risk – does it involve effects that have been considered implicitly or explicitly by higher order documents? Does it involve effects addressed by other standards/commonly accepted best practice?	National and regional direction documents provide clear direction, and there is commonly accepted best practice within the southland region		x	
Likelihood of increased costs or restrictions on individuals, communities, or businesses.	There is a cost to individuals associated with applying for resource consent, however restrictions only apply in limited circumstances, and there is a consenting pathway for development.	x		

5.2 Evaluation Summary

In summary the issues are generally of medium to low significance as there is already public access provision within the Operative District Plan. Esplanade reserve provision, also addressed through the Subdivision s32 assessment, relates only to those undertaking subdivision of under 4 hectares. The river setback requirements, also addressed through the Rivers and their Margins s32 assessment, only applies to development within close proximity to rivers and streams. In summary, the restriction on individuals is low, with the wider reaching benefits to the community.

The level of detail in this report corresponds with the scale and significance of the environmental, economic, and cultural effects that are anticipated from the implementation of the provisions.

6. Consultation

6.1 Overview

The Section 32 – Overview Evaluation Report provides an overview of the consultation undertaken to date in respect of the PDP. The PDP has been prepared in partnership with Hokonui Rūnanga. The rūnanga have reviewed and provided feedback on the public access chapter to ensure consistency with the Mana Whenua Chapter and that cultural values are appropriately integrated throughout the proposed provisions.

Engagement with the community on the draft District Plan was undertaken 10th August 2022 to 30th September 2022. The feedback received is summarised below:

Person / Organisation	Feedback summary	Response
Alliance Group Ltd	PA-O3 and PA-P5 – Concerned that public access along portions of the Mataura River could lead to significant health and safety concerns. Requests that public health and safety be added to the policy.	The following changes were made in response to feedback: PA-O3. Public access does not result in adverse effects on natural character, indigenous biodiversity, historic heritage, cultural, landscape values or health and safety. PA-P5. Restrict public access in areas that would result in adverse effects on natural character, indigenous biodiversity, historic heritage, cultural, landscape values or health and safety.
Southland Federated Farmers	PA-O1 and PA-O2 - Concerned that the policy will conflict with private property rights and may interfere with farming activities. Requests the policy be amended to reflect this. PA-O3 -Requests access issues and negotiations need to be resolved prior to the drafting of public access corridor mapping. PA-P2 – wish to remind Councils of their compensation obligations under 237E.2 and 237F. PA-P3 - Request that public access is recommended as opposed to mandatory. PA-P4 – Request public access go hand in hand with site specific engagement with farmers to ensure compliance with health and safety plans.	Public access is an RMA S6(d) requirement. In addition to this setback from rivers and streams are also due to ecological values and mitigating flood impacts etc. Setbacks vary depending on the order of the stream and the zone requirements - noting this is triggered by development and subject to discretionary decision making and therefore a consenting pathway exists to justify non-compliance with this in some instances. Esplanade reserves have historically not been provided or provided to a much lesser extent than the default within the RMA Benefits of public access includes increased access for recreation and amenity, pedestrian and cycling corridors separate from road networks, planting opportunities benefiting conservation, amenity, bank stability, flood protection and water quality. Additionally, setbacks

	Requests additional policy to clarify which areas are available for public access to help avoid trespassing issues.	from streams can assist with flooding effects as the area is void of development. The proposed esplanade reserve requirements align with Invercargill and Southland District requirements, as well as the default within the RMA which require 20m wide esplanades for lots under 4HA Health and safety is now proposed to be included within PA-O3 and PA-P5 as above.
Department of Conservation	PA-O3 and PA-P5 - Generally supportive of the restriction of public access in order to avoid adverse effects on natural character, indigenous biodiversity, and historic heritage.	No changes requested.
Royal Forest and Bird Protection Society of New Zealand	PA-P2 - Generally supportive of the provision of public access through esplanade reserves and/or strips along waterbodies. Requests these areas are planted in native/indigenous plants, and that pest control plans/measures are required.	Recommend addition to PA-P2: <i>"encourage native riparian planting"</i>
Transpower	Generally supportive - PA-P5 - requests that public access may be restricted in some instances for health and safety reasons. <i>"Restrict public access in areas that would result in adverse effects on nationally significant infrastructure, natural character, indigenous biodiversity, historic heritage, cultural, or landscape values."</i>	The following changes were made in response to feedback: PA-O3. Public access does not result in adverse effects on natural character, indigenous biodiversity, historic heritage, cultural, landscape values or health and safety. PA-P5. Restrict public access in areas that would result in adverse effects on natural character, indigenous biodiversity, historic heritage, cultural, landscape values or health and safety.

Feedback summary

Key stakeholders raised issues primarily around the health and safety concerns of allowing unfettered public access, in particular areas where access may interfere with onsite activities. Southern Federated Farmers in particular raised concerns about public access provision conflicting with private property rights. Royal Forest and Bird Protection Society of New Zealand requested that esplanade reserves and strips along riparian areas be planted in indigenous vegetation and subject to pest control.

Key changes in response to feedback

Staff explored where wording could be amended to accommodate some requested changes, and clarify some policy, however no fundamental changes were made.

Feedback from federated farmers focused largely on the protection of private property rights, as public access is a s6 requirement of the RMA no fundamental changes were made to the objectives and policies. The primary function of the provisions is to enhance public access, which is gained via esplanade reserve provision through a subdivision process and therefore a consenting pathway is maintained to justify non-compliance where justified.

Specific changes in response to feedback include:

- Inclusion of health and safety within the policy framework.
- Inclusion of a subdivision matter of discretion aimed to encourage riparian planting within esplanade reserves.

7. Proposed Plan Provisions

7.1 Strategic Direction

The PDP includes a number of strategic objectives which have been tested in terms of s32(1)(a) in their relevant s32 reports. However, the other chapters of the plan should align with these strategic objectives to ensure vertical integration within the PDP. The strategic objectives in the PDP that relate to Public Access are laid out below:

In terms of the Public Access, objectives UFD-O1 is the most relevant. This objective seeks that the district develops in a way that provides for social and cultural vitality, and economic growth while minimising adverse impacts on natural values and that recognises the cultural and traditional relationship of Māori with waterbodies.

The mana whenua chapter articulates mana whenua and Te Taiao values. The values of particular relevance to public access include the provision of Kaitiakitanga, whakapapa, mauri, manaakitanga, wairua, whanaungatanga, utu, mātauranga, te reo māori, ki uta ki tai, and consideration of wai, whenua and mahinga kai. Public Access is physically integrated into the natural environment and mana whenua have a kaitiaki role in protecting the natural environment and in particular the mauri of water. Mana whenua has a right to access resources for harvesting in accordance with tikanga.

7.2 Objectives and Policies and Definitions

The proposed objectives, policies, and definitions have been drafted to address the resource management issues relating to activities on public access as identified in section 2.1 and detailed in section 4 of this report. The background assessment of other Council's Plans and the ODP along with the scale and significance of the issues and topic have also informed the PDP provisions.

The provisions for public access seek to:

- provide for the provision of public access to and along the district's waterbodies
- maintain and enhances the values associated with water bodies
- provide for Māori cultural relationships with waterbodies, use and traditions, such as mahinga kai practices
- manage the potential for conflict between activities
- manage the physical development within proximity to streams and rivers

The following provisions are proposed within the Public Access Chapter of the PDP:

Objectives
There are three objectives that seek to provide for public access along water bodies with high recreational, scenic, cultural or amenity values. Objectives 1 and 2 seek to develop the districts pathway network to enhance access for the gathering of food and mahinga kai actives, and to enhance recreational opportunities and to improve the districts reputation as a trout fishing destination. Objective 3 caveats the above to ensure that public access does not result in adverse effects on natural character, indigenous biodiversity, historic heritage, cultural, landscape values or health and safety.
Policies
The policies promote the identification of public access corridors that provide access to water bodies throughout the district, and to maintain and enhance public access through: - The subdivision process by requiring esplanade reserve and strip provision. - Zone provisions that require physical development setbacks from waterways. - Negotiating for access strips and links to achieve public access corridors. - Encouraging native riparian planting. Policies seek to encourage the enhancement of mana whenua customary access to cultural significant sites at the time of development or re-development to encourage mahinga kai access and customary practices. Non-regulatory methods are encouraged for the provision of public access along rivers and streams. Public access is restricted in areas that would result in adverse effects on natural character, indigenous biodiversity, historic heritage, cultural, landscape values and health and safety.
Rules
The Public Access chapter does not have any rules. The above objectives and policies are implemented through subdivision esplanade reserve requirements.
Standards
The Public Access chapter does not have any standards. The above objectives and policies are implemented through underlying zoning development setbacks from streams and rivers.
Definitions
The following definitions are relevant to the Public Access Chapter: amenity values have the same meaning as in section 2 of the RMA (as set out below) means those natural or physical qualities and characteristics of an area that contribute to people’s appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes. lake has the same meaning as in section 2 of the RMA (as set out below) means a body of fresh water which is entirely or nearly surrounded by land river has the same meaning as in section 2 of the RMA (as set out below) 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). waterbody has the same meaning as in section 2 of the RMA (as set out below)

means fresh water or geothermal water in a river, lake, stream, pond, wetland, or aquifer, or any part thereof, that is not located within the coastal marine area

8. Evaluation of Objectives

This section of the report evaluates the proposed objectives as to whether they are the most appropriate to achieve the purpose of the Act.

Existing Objective	Appropriateness to achieve the purpose of the Act
8.3 (4) – Objective 2 To provide public access to the Mataura River and access for licensed sports fishers to the Waikaka Stream	This objective provides high level guidance to decision makers around the expectations for public access to the Mataura River in general, and to the Waikaka Stream for angling purposes. The objective is high level, does not extend to the districts other waterbodies and does not flow through to effective methods for implementation. Relevance and Usefulness The objective provides some guidance for public access provision, but this is limited to the Mataura River and Waikaka Stream. The objective does however not address public access more broadly as anticipated by S6(d) of the Act or the identified resource management issues and is therefore of limited usefulness and relevance. Reasonableness Provisions in relation to public access will not result in unjustifiably high costs to individuals, although the limited scope of the objective may also not achieve desirable outcomes for the community. Achievability The provisions seek outcomes within the scope of Council’s responsibilities; however, it should be noted that this objective has not resulted in the provision of any esplanade reserves and therefore the objective even with its limited scope has not been achieved through the ODP.

Proposed Objectives	Appropriateness to achieve the purpose of the Act
PA-O1 Public access is provided to and along waterbodies with high recreational, scenic, Ngāi Tahu cultural or amenity values. PA-O2 The District’s pathway network is developed to provide public access to the natural environment including for the gathering of food and mahinga kai activities, to enhance recreational opportunities and to improve the District as a world-class trout fishing destination. PA-O3 Public access does not result in adverse effects on natural character, indigenous biodiversity, historic heritage, cultural, landscape values or health and safety.	The objectives are considered the most appropriate way to achieve the purpose of the Act because they: - Consistent with Section 5(2) enables people and communities to provide for their social, economic, and cultural well-being in a sustainable manner by safeguarding the waterbody values and managing adverse effects on the environment. - Recognise and provide for Section 6 matters of national importance including (a) relating to natural character (c) protection of habitats (d) the maintenance and enhancement of public access (e) Māori cultural and traditional relationships, and (g) protected customary rights. - Have regard to Section 7 other matters in the protection use and management of the resource including (a) kaitiakitanga (aa) the ethic of stewardship (c) amenity values (d) ecosystems (f) quality of the environment (h) trout and salmon habitat. Relevance The objectives are relevant as they address the resource management issues identified and seek to make provisions for public access, specifically the more directive objectives and corresponding methods enable the plan to align with RMA direction and neighbouring best practice. The objectives also seek to enable improved Ngāi Tahu access for mahinga kai activities and expand access to rivers beyond the Mataura River and the Waikaka Stream which are not addressed under the operative plan. Usefulness: The objectives are useful as they guide decision making by providing clear direction on what the intended outcome is and describes the end state, that public access should be provided for, the values of the waterbody should be maintained and enhanced, and Māori cultural and traditional activities are provided for. Reasonableness: The objectives are reasonable as they are unlikely to result in an unjustifiable cost on the community since they build on existing policy and are likely to only impact a small number of landowners who are undertaking subdivision in proximity to waterways. Although there may be some cost associated with the provision of public access through this process this is not considered unreasonable, particularly given the importance as a Section 6 matter of the RMA. Achievability: The objectives are consistent with identified tangata whenua and community outcomes and can realistically be achieved within the Council’s powers, skills, and resources.

9. Evaluation of Options to Achieve the Objectives

9.1 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.

For each potential approach an evaluation has been undertaken relating to the costs, benefits and the certainty and sufficiency of information (as informed by section 4 of this report) in order to determine the effectiveness and efficiency of the approach, and whether it is the most appropriate way to achieve the relevant objective(s). For the purpose of this evaluation, the Council has considered the following potential options:

- Option A - The proposed provisions
- Option B - The 'status quo' provisions.

Section 32(2)(b) requires that if practicable the benefits and costs of a proposal are quantified. Given the assessment of the scale and significance of the proposed changes in Section 5 above, it is considered that quantifying costs and benefits would add significant time and cost to the s32 evaluation processes, therefore exact quantification of the benefits and costs in this report was not considered necessary, beneficial or practicable. Rather, this report identifies where there may be additional cost(s). It is noted further evaluation of esplanade reserve and strip provision is undertaken within the Subdivision s32 assessment and further evaluation of development setbacks for rivers and streams is undertaken within the Rivers and their Margins s32 assessment.

Option A – Proposed Provisions

Objective PA-O1: Public access is provided to and along waterbodies with high recreational, scenic, Ngāi Tahu cultural or amenity values.

Policies, which give effect to the objective:

PA-P2 Maintain and enhance public access by:

1. *requiring through the subdivision process the provision of esplanade reserves and/or esplanade strips along waterbodies, particularly in urban areas and along public access corridors. Public access to and along the Maitava River, and access for licensed sports fishers to and along Waikaka Stream, shall generally be provided by way of esplanade strips*
2. *requiring through the land development process, where practicable, works and buildings to be set back from public access corridors.*
3. *negotiating for access strips and access links that achieve future public access corridors including utilising unformed legal roads.*
4. *require buildings and structures to be setback from rivers and streams.*
5. *encourage native riparian planting.*

PA-P3 Encourage the enhancement of mana whenua customary access to culturally significant sites, such as the Maitava River mātaihai and Maitava Falls/Te Au Nui Pihapiha Kanakana, at the time a site is redeveloped.

PA-P4 Use non-regulatory methods to encourage to facilitate public access to and along rivers and streams, and to the natural environment including:

1. *involving landowners, access users and mana whenua in the development of key actions to maintain and enhance access.*
2. *providing clear signage.*
3. *ensuring that private buildings, structures, and plantings do not encroach upon reserve areas, and clearly demarcating the edge between public and private areas.*
4. *providing incentives for landowners to provide reserves and other access points on their land.*
5. *development and adoption of a protocol with the Southland Fish and Game Council providing for notification/education of licensed sports fishers. Notification/education of licensed sports fishers shall take the form of written information to be provided to fishers by the Southland Fish and Game Council in its publications to fishers, and by the erection of signs at esplanade strips on the Waikaka Stream including information regarding the following:*
 - a) *Biosecurity risk and procedures*
 - b) *Trespass*
 - c) *Landowner notification*

- d) Site behaviour/protocol
- e) Site specific conditions e.g., closure periods

PA-O2: The District's pathway network is developed to provide public access to the natural environment including for the gathering of food and mahinga kai activities, to enhance recreational opportunities and to improve the District as a world-class trout fishing destination.

Policies, which give effect to the objective

PA-P1 Promote the identification and mapping of current and future public access corridors that provide access to waterbodies and/or connect open spaces and other public areas, informed by the Gore District Trails Feasibility Study (2017).

PA-P2 Maintain and enhance public access by:

6. requiring through the subdivision process the provision of esplanade reserves and/or esplanade strips along waterbodies, particularly in urban areas and along public access corridors. Public access to and along the Maitara River, and access for licensed sports fishers to and along Waikaka Stream, shall generally be provided by way of esplanade strips
7. requiring through the land development process, where practicable, works and buildings to be set back from public access corridors.
8. negotiating for access strips and access links that achieve future public access corridors including utilising unformed legal roads.
9. require buildings and structures to be setback from rivers and streams.
10. encourage native riparian planting.

PA-P3 Encourage the enhancement of mana whenua customary access to culturally significant sites, such as the Maitara River mātaihai and Maitara Falls/Te Au Nui Pihapiha Kanakana, at the time a site is redeveloped.

PA-P4 Use non-regulatory methods to encourage to facilitate public access to and along rivers and streams, and to the natural environment including:

6. involving landowners, access users and mana whenua in the development of key actions to maintain and enhance access.
7. providing clear signage.
8. ensuring that private buildings, structures, and plantings do not encroach upon reserve areas, and clearly demarcating the edge between public and private areas.
9. providing incentives for landowners to provide reserves and other access points on their land.
10. development and adoption of a protocol with the Southland Fish and Game Council providing for notification/education of licensed sports fishers. Notification/education of licensed sports fishers shall take the form of written information to be provided to fishers by the Southland Fish and Game Council in its publications to fishers, and by the erection of signs at esplanade strips on the Waikaka Stream including information regarding the following:
 - f) Biosecurity risk and procedures
 - g) Trespass
 - h) Landowner notification
 - i) Site behaviour/protocol
 - j) Site specific conditions e.g., closure periods

PA-O3: Public access does not result in adverse effects on natural character, indigenous biodiversity, historic heritage, cultural, landscape values or health and safety.

Policies, which give effect to the objective:

PA-P5: Restrict public access in areas that would result in adverse effects on natural character, indigenous biodiversity, historic heritage, cultural, landscape values or health and safety.

Rules and standards implementing the above objectives can be found within underlying zone provisions and the subdivision chapter. Specifically:

The provision of esplanade reserves and strips is a matter of discretion throughout the Subdivision Chapter. This along with the objectives and policies with the Chapter requires plan users to implement section 230 of the RMA.

Underlying zone provisions require the following setbacks:

Setbacks from streams and rivers:

1. Any building or structure is set back from the top of the closest bank of any stream or river the minimum distance as follows:
 - (a) 20m for high order rivers or streams (order 5 and above);

(b) 10m for middle order rivers or streams (order 3 and 4); and
(c) 5m for low order rivers or streams (order 1 and 2).

Refer to Appendix 3 for river and stream orders

Benefits	Costs
Environmental Development setbacks from rivers and streams and the promotion of riparian planting is likely to improve the environmental values of riparian environmental values and outcomes. The provision of esplanade reserves is likely to result in increased riparian vegetation and a decrease in development and farming use along river and stream margins, likely resulting in improved riparian environments.	Environmental Public access to and along waterbodies could result in adverse environmental effects, however public access is restricted where it could result in adverse effects on natural character, indigenous biodiversity, and landscape values.
Economic The provisions promote recreational use which can provide for longer stays by visitors and an increase in commercial activities, both of which bring economic benefit to the district.	Economic The provision of esplanade reserves has some associated costs for consent holders.
Social The provisions promote recreational and cultural use of the riparian margins of rivers and streams and enable access to water bodies. This prioritises public access use and enjoyment, and the associated effects are considered to have social benefits for the community.	Social There are no known social disadvantages of the proposed provisions.
Cultural The provisions recognise Ngāi Tahu cultural values, provide for cultural uses, mahinga kai practices. The provisions seek to protect and enable customary rights and Māori cultural practices and activities.	Cultural Cultural costs are not anticipated, and the cultural values referred to in the provisions are set out in the Mana Whenua chapter. However, requiring consideration of the effects of cultural values may result in more consultation with mana whenua, and may result in a time and resource cost to them.
Efficiency	
The environmental, social, economic and cultural benefits of public access provision outweigh the costs of restrictions. There are a number of improved efficiency outcomes associated with the PDP provisions. These included improved clarity through more directive objectives and policies which provides greater certainty for applicants and decision makers and will improve efficiency compared to the status quo option.	
Effectiveness	
The proposed provisions are considered to be the most effective means of achieving the objective(s) as together they will: - enable the Council to fulfil its statutory obligations, including duties imposed on the Council by s31 of the RMA; - ensure that public access is provided for in accordance with the RMA; - ensure that mana whenua customary access to mahinga kai sites; - ensure that adverse effects from public access are managed appropriately based on their compatibility with a range of values and surrounding users; - enable the Council to effectively administer its District Plan in a clear and consistent manner. - address the identified resource management issues; and - implement section 230 through esplanade reserve provision through the subdivision chapter.	
Risk of acting or not acting	
The effects of public access are generally well understood. There is also sufficient knowledge of activities undertaken around the waterways of the District and understanding of the effects of those activities to enable identification of the relevant resource management issues and the appropriate responses to those issues. Public access is important for the Gore District due to the following: - Section 6 matter under the RMA - Steams and Rivers are an important public recreation, commercial, amenity, and environmental resource	

- Mataura River is of particular importance to the district due to the following: ➤ statutory acknowledgment area, ➤ subject to a Water Conservation Order ➤ important trout fishery ➤ important cultural feature ➤ important landscape feature The status quo does not effectively provide for public access and as such the risk of not acting may result in a failure for to give effect to its statutory obligations.
Alternative options which are more or less appropriate to achieve the objective
Option B – Status Quo The current provisions are not considered appropriate as they have not achieved any increased public access, provided for mana whenua customary access to mahinga kai sites, or manage development within proximity to water bodies. The existing provisions lack clarity and direction and do not clearly address the issues which have been identified and which the proposed objectives address, therefore maintaining the status quo is not an appropriate way to achieve the objectives.
Overall Evaluation
The preferred option is the Proposed District Plan provisions which will achieve the purpose of the Act and provide greater clarity and direction to applicants and decision makers thereby being consistent with section 5 of the RMA 1991. The provisions provide an appropriate balance between allowing for public access to occur to benefit the community and customary rights, whilst managing the potential adverse effects of that access on the cultural, natural and amenity values of the waterbody, surrounding users, and protected customary rights.

9.2 Summary of Preferred Options

Summary This evaluation has been undertaken in accordance with Section 32 of the Act in order to identify the need for and the benefits and costs arising from the District Plan Review relating to provision for public access to and along waterbodies, including the stream and river setback standard for buildings and structures across all zones, and esplanade provisions within the subdivision chapter. The evaluation assesses the appropriateness of the current and proposed methods and rules having regard to their effectiveness and efficiency relative to other means in achieving the purpose of the Act. The approach adopted, of guiding the maintenance and enhancement of public access through specific objectives and policies with integrated zone provisions managing development within riparian margins and esplanade requirements for subdivision is considered to be the most appropriate way to achieve the purpose of the RMA. The proposed provisions are the preferred option because they: • Address the resource management issues identified. • Give effect to higher order documents, including the RPS. • Will enable Council to undertake its statutory functions under the Act. • The social, cultural, economic and environmental benefits of the proposed provisions are considered to outweigh the costs to individuals in restricting new development around rivers and streams. • Are consistent with current best practice. • Will assist in achieving public access outcomes identified in local strategies.
--