

PROPOSED GORE DISTRICT PLAN SECTION 32 REPORT

RIVERS AND THEIR MARGINS



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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 report relates to the provisions for rivers and their margins under the Proposed Gore District Plan (PDP) and includes the Activities on the Surface of Water chapter and standards to protect river and stream values across the district. Other chapters that relate to rivers and their margins include Ecosystems and Biodiversity, Natural Features and Landscapes, Natural Hazards, Public Access, and Sites and Areas of Significance to Māori chapters and are addressed and evaluated in separate section 32 reports for those topics.

The management of freshwater is primarily a regional Council function and managed by Environment Southland. However, the control of any actual or potential effects of the use, development, or protection of land and of activities in relation to river margins and the surface of water in rivers and lakes is a District Council function under Section 31 of the Act.

In achieving the purpose of the Act, district plans are required to recognise and provide for Section 6 matters of national importance, and have particular regard to a range of Section 7 matters (many of which directly or indirectly relate to rivers and their margins) and take into account the principles of the Treaty of Waitangi referred to in Section 8.

National and regional direction documents also require an integrated approach to freshwater management, the management of potential effects on stream health, and water quality and flows from land use and development. A Water Conservation Order applies to the Mataura River, the Waikaia River and some tributary streams. The Mataura River is also formally recognised for its cultural significance to Ngāi Tahu by way of a statutory acknowledgement. In addition the Mataura River Mātaitai Reserve Bylaws applies above, at and below, the Mataura Falls. The provisions relating to rivers and their margins are intended to be consistent with, and where appropriate, give effect to these.

The Strategic Objectives of particular relevance to rivers and their margins is UFD-O1. UFD-O1 seeks that the district develops in a way that recognises the cultural and traditional relationship of Māori with waterbodies and provides for social and cultural vitality and economic growth while minimising adverse impacts on natural values..

There are no specific objectives in the Mana Whenua chapter, however the chapter articulates mana whenua and Te Taiao values. Ki uta ki tai is a holistic environmental philosophy that forms the basis of mana whenua approach to resource management. This philosophy recognises that the environment as an undivided entity and is also recognised by national and regional direction documents. Wai is one of the most important elements within a Ngāi Tahu worldview, and mana whenua have a kaitiaki role in protecting it and a right to access resources for mahinga kai and harvesting in accordance with tikanga.

The provisions developed in relation to rivers and their margins will assist the Council to fulfil its statutory functions and responsibilities as required by the Act through the following proposed objectives, policies, rules and standards.

River and stream setbacks

- Objectives and policies across all zones that require the management of built development and earthworks near streams and rivers.
- Setback standards across all zones that manage the effects from works and development within the setback relating to:
 - Stream health and water quality;
 - Riparian vegetation, indigenous biodiversity and/or habitats;
 - The natural character of the riparian margin and landscape values;
 - Ngāi Tahu cultural values;
 - Public and customary access; and
 - Flood risk management.

Activities on the Surface of Water

- Objectives that seek to:
 - provide sustainable recreational, social and economic opportunities for the community;
 - maintain and enhance the range of values associated with the waterbody; and
 - recognises and provide for Maori culture, traditions and rights.
- Policies:
 - promote and facilitate the recreational and cultural use of water bodies;
 - facilitate the undertaking of government statutory functions such as monitoring and testing equipment;
 - direct the management of commercial activities and the need to address the potential for conflict between activities;
 - manage the type and location of structures, equipment and infrastructure on or above the surface of water bodies.
 - require consideration of the effects on the values of the waterbody, including natural character, amenity and landscape, water quality and quantity, ecosystems and biodiversity, public and customary access, and Ngāi Tahu cultural values; and
 - seek to give effect to the Maitai River Water Conservation Order and protect customary rights.
- Rules provide for:
 - Navigational aids or signage;
 - Measuring and monitoring equipment;
 - Operation and maintenance of established infrastructure;
 - Use of motorised watercraft for government statutory functions;
 - Sport and recreation activities using non-motorised watercraft;
 - Sport and recreation activities using motorised watercraft, within specified periods, locations and speeds;
 - Commercial fishing guides using non-motorised watercraft; and
 - Existing activities

All other activities on the surface of water are discretionary activities, except for any damming structure which is prohibited on the Maitai River, Waikato River and Otamaiti Stream.

2. Overview and Purpose

This s32 evaluation report should be read in conjunction with the s32 for 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 evaluation of the appropriateness of the provisions is based on the following key issues:

Issue 1 - The plans has not given effect to higher order documents as required, and there is a gap in the management of freshwater and in particular the margins of freshwater bodies as anticipated by national and regional policy direction.

Issue 2 - There are no rules in the plan associated with rivers and their margins that recognises the relationship of Maori and their culture and traditions.

Issue 3 - The waterways that the yard setback applies to are not identified and there is no guidance or direction relating to the effects that are sought to be managed, or the values to be protected.

Issue 4 -There are no specific provisions relating to activities on the surface of water.

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.

The PDP includes a chapter relating to activities on the surface of water which is consistent with the requirements of the National Planning Standards and which contains objectives, policies, rules and standards to manage activities and their effects. Development and works within river margins are managed in each zone chapter, as they manage effects relating to a broad range of values.

This report assesses the appropriateness of the proposed Objectives to achieve the purpose of the Act and the effectiveness and efficiency of the policies, rules and standards which give effect to the Objectives. This report also provides information on the issues that the provisions seek to address, research undertaken and an evaluation of the provisions relating to activities and development on and around rivers within the Operative District Plan (ODP).

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

Part 2 matters

In carrying out a section 32 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 protection of outstanding natural features and landscapes from inappropriate subdivision, use, and development;
- (c) the protection of areas of significant indigenous vegetation and significant habitats of indigenous fauna;
- e) the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, waahi tapu, and other taonga; and
- g) the protection of protected customary rights.

Activities on the surface of water can have an effect on the values of the waterbody, including the natural character of waterbodies and their margins, and these can also be valued as landscape features. Aquatic and riparian ecosystems provide wildlife habitat and indigenous biodiversity. Water/ Wai is taonga to mana whenua and many of the waterways in the district also have cultural significance recognised by statutory acknowledgment. In addition, customary rights are protected within the Mātaura River Mātaitai Reserve located on a section of the Mātaura River around Mātaura 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;
- (c) the maintenance and enhancement of amenity values;
- (f) maintenance and enhancement of the quality of the environment;
- (h) the protection of the habitat of trout and salmon; and
- (i) the effects of climate change:

Ngāi Tahu are mana whenua of the district and their kaitiakitanga is recognised through the statutory acknowledgment that applies to the Mātaura River and its tributaries and the Mātaura River Mātaitai Reserve. The rivers and lakes of the district provide significant amenity values for the community and the use of these can affect the quality of the environment. The Mātaura 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.

Functions of Local Authorities

The function of District Councils under Section 31(1)(e) includes the control of any actual or potential effects of activities in relation to the surface of water in rivers and lakes.

Under Section 30 Regional Councils are responsible for:

- (i) Controlling the use of land for the purpose of maintaining and enhancing ecosystems in water bodies and the avoidance of mitigation of natural hazards.
- (ii) Controlling the quantity and quality of water in water bodies
- (iii) In relation to any bed of a water body, the control of the introduction or planting of any plant in, on, or under that land.

Section 10A Existing activities

Under s10A of the RMA, once a rule controlling an activity on the surface of the water becomes operative, existing lawfully established uses can continue provided that a resource consent is applied for within 6 months.

Mataura 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 Activities on the Surface of Water:

- 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.

In accordance with the NPS-FM requiring setbacks from waterways for development and works across all zones, and management of activities on the surface of water, has been adopted as an integrated method to manage the effects of growth and development in the PDP.

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 NPS are relevant to Activities on the Surface of Water:

- NES for Sources of Human Drinking Water 2007
- NES for Freshwater 2020

The National Environmental Standards for Sources of Human Drinking Water 2007 complements Ministry of Health legislation for improving drinking water supply and delivery to ensure a comprehensive approach to managing drinking water from source to tap. The NES requires regional councils to ensure that effects of activities on drinking water sources are considered in decisions on resource consents and regional plans. The water supplies for Gore are wells, and these are located in the margins of the Mataura River and are therefore relevant. More broadly, activities or development around rivers or streams could also affect water quality are also considered relevant.

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 (NPS) 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 NPS also provides the structure and form for the Plan content along with definitions and mapping criteria. The management of development in rivers and their margins relate to a range of integrated topics and are therefore implemented across the plan rather than contained within one standalone chapter.

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

- The National Planning Standards require that the Activities on the Surface of Water chapter be included in the under a General – district wide matters section of the District Plan.
- The unique identifier for the chapter is ASW – Activities on the Surface of Water
- Relevant definitions include:

amenity

values has 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

land has the same meaning as in section 2 of the RMA (as set out below)

(a) includes land covered by water and the airspace above land; and

(b) in a national environmental standard dealing with a regional council function under section 30 or a regional rule, does not include the bed of a lake or river; and

(c) in a national environmental standard dealing with a territorial authority function under section 31 or a district rule, includes the surface of water in a lake or river.

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).

water has the same meaning as in section 2 of the RMA (as set out below)

(a) means water in all its physical forms whether flowing or not and whether over or under the ground:

(b) includes fresh water, coastal water, and geothermal water:

(c) does not include water in any form while in any pipe, tank, or cistern.

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

3.5 Regional Policy Statement

The Southland Regional Policy Statement 2017 (RPS) 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.

The provisions of the RPS are summarised within the Section 32 evaluation report – Urban Form and Development and Overview. The RPS does not address activities on the surface of water or rivers and their margins directly, however chapters that are relevant include the Tangata Whenua and Water chapters.

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. Kaitiakitanga is the means by which the mauri (life force) of taonga (treasures) is restored, maintained and enhanced for present and future generations. Tikanga, or customary practices, are followed in order to protect mauri.

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 are required to establish and maintain provisions in district plans that safeguard identified tangata whenua environmental and cultural values and resources from inappropriate subdivision, use or development. This includes recognising and providing for ancestral lands, wāhi tapu, wāhi taonga and recognised customary sites, activities and statutory acknowledgements. The RPS also requires support mechanisms such as esplanade provisions and marginal strips adjacent to waterways that enable tangata whenua to access mahinga kai species and resources.

Rivers and values associate with waterways have a strong cultural significance to tangata whenua. Activities on the surface of water and works and development in river margins can directly or indirectly affect Ngāi Tahu environmental and cultural values and customary rights, and these effects should therefore be managed in the district plan.

Water

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

These aspects of freshwater management are generally regional Council functions, however the RPS highlights that Territorial Authorities have the function of controlling any actual or potential effects of the use, development or protection of land. This includes any effects on water quality or quantity that may arise from the use, development or protection of land. All councils in Southland therefore have statutory responsibilities that relate to the management of water.

Both regional and district plans also have a role to play in 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.

Activities on the surface of water and works and development in river margins can directly or indirectly affect water quality, quantity and public access to lakes and rivers and should therefore be managed in the district plan.

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 – Urban Form and Development and Overview report. The Proposed Southland Water and Land Plan 2018 addresses regional functions in relation to water and land use activities. This includes water takes, discharges to land and water and activities undertaken in the beds of lakes and rivers, including structures, damming and diversions. A range of rules require setbacks from rivers (excluding ephemeral rivers) artificial watercourses, and modified water courses.

While regional plans do not manage activities on the surface of waterbodies, their provisions and the manner in which they are administered can impact positively or negatively on the activities that do take place on the surface of water bodies. The Southland Water and Land Plan includes controls on the erection of structures on the beds of lakes and rivers, many of which can extend to above the surface. Such structures are sought to be managed to avoid, remedy or mitigate various adverse effects. This does not include consideration of public use, other than navigation safety.

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.

The kaupapa of this plan 'Ki Uta Ki Tai – From the Mountains to the Sea' reflects the knowledge that resources are connected and must be managed as such. Water is a taonga, or treasure of the people. It is the kaitiaki responsibility of tangata whenua to ensure that this taonga is available for future generations in as good as, if not better quality. Many of the waterways of the Southland plains also have specific cultural associations and are recognised as statutory acknowledgment areas. Ngāi Tahu require that these areas should be identified in district plans and to give notice of their cultural importance to Ngāi Tahu.

The collection and processing of mahinga kai is highlighted as an important social and economic cultural activity. The loss of mahinga kai is attributed to habitat degradation, resource depletion, legislative barriers that impede access, changes in land tenure that affect ability to access resources and the introduction of predators that have severely reduced the traditional foods of Ngāi Tahu.

The protection of indigenous biodiversity is an important value for Ngāi Tahu ki Murihiku. In many parts of the takiwā, where land use is dominated by agriculture and forestry, the impact of human activity on indigenous species has been significant. Tangata whenua advocates for the establishment of indigenous vegetation corridors ki uta ki tai, from mountains to the sea.

For Ngāi Tahu ki Murihiku, the potential effects of subdivision on cultural values have little to do with the “lines on the map”, and more to do with how to manage the effects of associated land use activities. Generally, land will be used more intensively following subdivision. Ngāi Tahu ki Murihiku policies on subdivision and development focus on encouraging developers to strive to achieve positive community outcomes, conservation outcomes, and cultural outcomes alongside economic gain.

Policies that directly relate to the margin or rivers include:

- Advocate for the use of esplanade reserves, strips, and other similar provisions on those waterways where such provisions are deemed necessary to protect and provide for waterway health and access values.
- Subdivision activities along waterways of cultural importance to tangata whenua should maintain and enhance access to and along those waterways.

Activities and development undertaken on or along rivers will be affected by climate change. ‘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

Reserves Act 1977

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 Mātaura, provide public access to the Mātaura River.

Mātaura River Mātaitai Reserve

The Mātaura 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 below, encompasses the waters of the Mātaura River within:



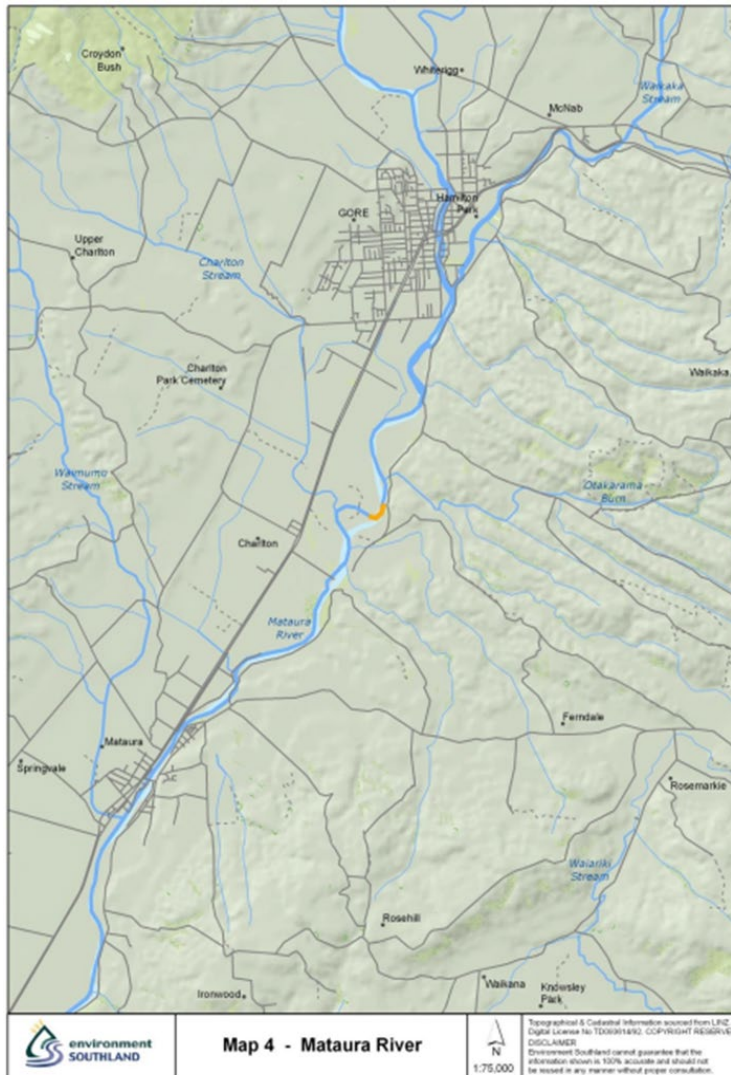
(a) the northern boundary being a line in an easterly direction across the Maitai River (from a point at 46°10.45'S and 168°53.67'E on the eastern bank to a point at 46°10.45'S and 168°53.87'E on the western bank) about 500 metres upstream of the Maitai tannery; and

(b) the southern boundary being a line in a westerly direction across the Maitai 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 Maitai River about 1 kilometre downstream of Shanks Road.

The Maitai River Maitai 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.

Southland Regional Council Navigation Safety Bylaws 2009

Local Government (Southland Regional Council Navigation Safety Bylaws 2009) Regulations 2009 pursuant to the Local Government Act 1974. The Navigation Safety Bylaws 2009 (Revised 2015) administered by Environment Southland provide for exemptions at various times of the year from the 5km per hour speed limit on the waterways of the Gore District, together with requests for specific dispensations. Any organisation may seek a temporary uplifting of speed restrictions to hold an organised event. Consultation is required with the Council, Fish and Game, and the Department of Conservation. If the organised event is approved, then signage is erected at appropriate public access points and advice is placed in newspapers prior to the event.



The Mataura River is the only water body currently used for motorised activities in the district, although river geomorphology and low summer flows limit safe navigation. However, for the Mataura River from 1 August to 30 September a speed exemption is provided. In addition, a year-round exemption applies within the area of water 300 metres long and 100 metres wide, 4.8 kilometres downstream from Gore at Beattie's Beach, as shown on Map 4.

Ngāi Tahu Claims Settlement Act 1998

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 sites¹. 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 Maitara River and its tributaries.

Anglers Notice for Fish and Game Regions

The Anglers Notice for Fish and Game Regions is pursuant to the Conservation Act 1987 and Freshwater Fisheries Regulations 1983. As per the gazetted Anglers Notice for the Southland Region for that portion of the Maitara River above Gore (State Highway 1 Bridge) the fishing season commences on 1 October each year and closes on 30 April the following year. For the portion of the river below Gore the fishing season also commences on 1 October but closes on 31 May the following year. The area below Gore is also closed to fishing on the first weekend of the duck shooting season. Fish and Game NZ administer hunting and angling activities on inland waterways and setting and enforcing the times of the year when these activities can be undertaken.

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. These parks generally have a low level of development and maintenance. Examples include areas along the Maitara River.

Gore District Trails Feasibility Strategy 2017

The strategy guides the development of the Gore District's trails for walking, cycling and horse riding. Trails bring many benefits to communities in New Zealand, including health and wellbeing benefits, tourism and economic benefits and lifestyle and social benefits. Although the strategy does not include activities on the surface of water, the principle of anticipated social and economic benefits from providing access to the river applies the same. This also applies to development in the margins of rivers that could hinder public access.

District Growth Strategy – Gore Economic and Social Background Report

The Maitara 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.

¹ Taonga (treasured) tōpuni (cultural significance overlay) nohoanga sites ('camping' sites to support mahinga kai activities)

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, District Plans 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 as 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 of activities on the surface of water and river margins to the effects of climate change. However, the broader mitigation and adaptation measures for growth and development are on a higher strategic level and are covered in the Section 32 – Urban Form and Development and Overview Evaluation Report.

4. Resource Management Issue Analysis

4.1 Background

The issues relating to rivers and their margins have been identified as:

Issue 1 - The plans has not given effect to higher order documents as required, and there is a gap in the management of freshwater and in particular the margins of freshwater bodies as anticipated by national and regional policy direction.

National and regional policy requires an integrated holistic approach to freshwater management, and although this is primarily a regional council function, the managing of potential effects on water quality or quantity that may arise from the use, development or protection of land (which includes the surface of water in a lake or river under the definitions) needs to be addressed in the District Plan.

Based on the above information, the ODP provisions have been partially effective at managing the margins of rivers and streams. However, based on changes to national and regional policy direction there is a gap in the management of freshwater and in particular the margins of freshwater bodies.

The development of the PDP is required follow the national direction set by the NPS-FM and undertake an integrated management approach to the management of rivers and streams. A holistic view in the management of the health of freshwater bodies within the district will need to incorporate earthwork provisions, hazard management particularly in relation to inundation as well as activities on the surface of water. River and Stream margin controls will also help manage these effects.

Public access to and along waterbodies be maintained or enhanced by esplanade mechanisms through the subdivision process, land use and development setbacks, and utilising unformed legal roads. The High Natural Character Feature and Outstanding Natural

Feature status of the Mataura River and Falls will need to be incorporated as part of this management.

Issue 2 - There are no rules in the plan associated with rivers and their margins that recognises the relationship of Maori and their culture and traditions.

Gore District Council has a range of responsibilities to mana whenua under the Resource Management Act 1991, most notably in recognising and providing for the relationship of Māori and their culture and traditions with their ancestral lands, water, sites, wāhi tapu, and other taonga (s6(e)) and protected customary rights(s6(g)); giving particular regard to the principle of kaitiakitanga (s7(a)); and taking into account the Principles of the Treaty of Waitangi (s8). The operative Plan has been limited in its effectiveness at upholding these responsibilities and there is also limited protection of resources of significance to mana whenua or provisions that enable direct engagement with mana whenua as kaitiaki.

The district's waterways 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 importance of Mataura River and its tributaries is recognised as a statutory acknowledgment area under the Ngāi Tahu Claims Settlement Act 1998, and in addition the Mataura River Mātaitai Reserve protects customary fishing up and downstream of the Mataura Falls/ Te Au Nui Pihapiha Kanakana.

Consistent with national and regional direction documents the PDP provisions need to recognise and provide for the underlying relationship Ngāi Tahu hold with the natural environment and the districts waterways, and rights and responsibilities in relation to them. The effects of the use of waterways and development in their margins need to be considered on cultural values and traditions associated with water, sites of significance, access to rivers, and protected customary fishing rights.

Issue 3 - The waterways that the yard setback applies to are not identified and there is no guidance or direction relating to the effects that are sought to be managed, or the values to be protected.

The Mataura River is the largest river in the district, however there are many other rivers and streams within the Gore District. These waterways range from small unnamed creeks to tributary streams such as the Waimumu Stream, Charlton Stream, and the Waikaka River.

The Gore District's rivers have many different recognised features and values, including their natural character, as landscape features, providing riparian and aquatic ecosystems and habitats, water quality and quantity, public use and have a potential flood risk. Several of these values are matters of national importance under the Act and need to be protected from adverse effects that may arise from use and development, or management of significant risks. It is however acknowledged that there is a difference between the significance and features of the streams and rivers and having a spatial hierarchy in the PDP is therefore desirable.

The PDP provisions will need to adequately manage the effects of subdivision, use, and development that take place within river margins and on the surface of water to protect the range of values and features of the waterbody.

Issue 4 -There are no specific provisions relating to activities on the surface of water.

The Mataura River and Waikaka Stream are the most significant water bodies in the district. The rivers are popular for recreation, including activities such as boating, fishing and swimming. Reserve areas along the banks of waterways provide a focus for these activities. The Mataura River and its tributaries are internationally recognised for its brown trout angling experience and recognised in the Mataura River Water Conservation Order.

Angling however is the most significant activity undertaken on the rivers and streams of the district, with the Gore District promoting itself as the Brown Trout Capital of New Zealand, attracting anglers from around the world. Commercial fish guiding businesses have been a feature of the district for many years, adding to the economic importance of the angling activity.

The social, cultural and economic benefit of rivers and lakes to the community and the maintenance and enhancements of amenity values and the quality of the environment are matters the Council must have particular regard to achieve the purpose of the Act.

The Operative District Plan(ODP) has no specific provisions for activities undertaken on the surface of water and has in the past relied on a mixture of zone rules and existing use rights. However, the PDP needs to provide for and manage activities to ensure these are compatible. Although the Council considers current use of the district's waterways to be legitimate and sustainable, the use of the surface of water bodies by some activities can create conflict with other activities occurring on the water bodies and/or on adjoining land. Motorised activities in particular have the potential to impact on the amenity and other users, however this is currently not at a scale that requires exclusive separation of activities or other management approaches and no complaints, such as noise, have been received by the Council in the past ten years. Speed restrictions for motorised watercraft and navigation safety is also administered by Environment Southland. Managing activities on the beds of lakes and rivers is also a function of Environment Southland. It is desirable to achieve consistency in approach between the two tiers of management and avoid duplication.

4.2 Operative Plan Approach

There Operative District Plan provisions relating to margins of rivers and streams include:

Margins of rivers and streams

2.4.3 Objectives

- (1) To preserve the natural character of the margins of the Mataura River.
- (2) To provide public access along the margins of the Mataura River where this is practical and can be safely undertaken without adversely affecting the use of adjoining land.

2.4.4 Policies

- (1) Control the adverse effects of land use activities on the margins of the Mataura River.
- (2) Maintain and enhance public access to and along the Mataura River except where this will affect public health or safety, or where site security would be compromised.

2.4.9 Rule

Within the area 20 metres each side of the bed of the Mataura River where land is zoned Rural, the following is a discretionary activity:

- (1) Mining or quarrying activities.
- (2) The erection of any structure greater than 3 metres in height or 6 square metres in area.
- (3) Earthworks, other than those associated with the tilling of the soil, fencing or pest plant management, exceeding:
 - (a) more than 100 linear metres along the river; or
 - (b) 1 metre in depth in the case of excavation; or
 - (c) 3 metres in height in the case of stockpiles or fill; or
 - (d) 50 cubic metres in volume.

In addition to the above there are provisions in the Subdivision chapter requiring an esplanade strip of 10m when a lot of less than 4.0ha is created adjacent to the Matura River and or the Waikaka Stream for licensed sports fisher access.

Rural Zone

4.7A.1 Yards Rule

- (2)(e) Buildings in the Rural Zone shall be set back 6 metres from any waterway more than 2 metres in width.

Any land use activity that does not comply with the setback is a restricted discretionary activity. The matters over which Council shall exercise its discretion are the adverse environmental effects of the matters with which there is non-compliance.

Activities on the surface of water

There are currently no specific provisions referring to the surface of water bodies in the ODP. The adjoining zoning therefore applies to these activities, and in most cases that is Rural. Recreational and commercial recreational activities, such as commercial fish guidance and commercial rafting, are not listed as being permitted in the Rural zone, therefore strictly they require consent under the default Rule 4.2.4 as a Discretionary activity. However, the capture of surface of water activities was never the intention of the zone plan provisions, and the Council recognises this situation requires correction.

4.3 Effectiveness of Operative Plan

Issue	Comment	Response
There are no specific provision relating to activities on the surface of water.	The zone rules apply to these activities, and as an unintended consequence all recreational activities and	Specific provisions for these activities will need be developed for the PDP, in

	commercial recreational activities are not provided for.	accordance with regional and national direction.
Only the river margins of the Mataura River are identified to be protected, which may be insufficient under the requirements the Act.	Council must recognise and provide for the preservation of the natural character of river margins, in addition to other s6 matters, national and regional direction documents with relevance to waterbodies.	Enhance the protection of rivers and their margins in the PDP to include other streams and rivers beyond the Mataura to give effect to higher order documents.
There is no guidance or direction relating to the effects that are sought to be managed or values to be protected in relation to the yard setback to waterways.	The restricted discretionary status is so broad it is in effect Discretionary, the lack of direction through objectives and policies also provides no guidance for decision making.	Set out clear policy direction about the values sought to be protected, and matters of discretion in the PDP.
The waterways that the yard setback applies to are not identified, and there is no guidance for where and how to measure the setback from or width of the river.	It is unclear for plan users whether they comply with the rules or not, which is not consistent with best practice.	Identify the rivers and streams in the PDP to be clear about where a setback is required, and be more directive about where to measure the setback from.
There are no rules in the plan associated with rivers and their margins that recognises the relationship of Maori and their culture and traditions.	Matter of national importance under RMA Section 6 (e) and (g) to recognise and provide for cultural and traditional Maori relationship, and to protect customary rights.	Specific provisions in the PDP to manage effects on customary and cultural activities around and on water, and recognise the underlying relationship Ngāi Tahu hold with the natural environment.

Gore District Plan Review Efficiency and Effectiveness Report 2022

The monitoring report was undertaken consistent with Section 35 of the Act to assess the efficiency and effectiveness of the ODP. Key Findings of the report found that the ODP has not given effect to the NPS-FM or the RPS 2017 as they were both developed after the notification of the Gore District Plan. Consequently, the Operative provisions of the plan have not given effect to national or regional policy direction, in particular utilised the regional criteria in identifying outstanding water bodies such as the Mataura River. Current esplanade reserve requirements under the Gore District plan are substantially more lenient than anticipated by the RMA resulting in fewer esplanade reserves. Based on the above information, the ODP provisions have been partially effective at managing the margins of rivers and streams. However, based on changes to national and regional policy direction there is a gap in the management of freshwater and in particular the margins of freshwater bodies.

Key recommendations of the report include that:

- The development of the PDP follow the national direction set by the NPS-FM and undertake an integrated management approach to the management of rivers and streams. A holistic view in the management of the health of freshwater bodies within the district will need to incorporate earthwork provisions, hazard management particularly in relation to inundation as well as activities on the surface of water. River and Stream margin controls will also help manage these effects.
- Public access to and along waterbodies be maintained or enhanced by esplanade mechanisms through the subdivision process, land use and development setbacks, and utilising unformed legal roads. The High Natural Character Feature and Outstanding Natural Feature status of the Mataura River and Falls will need to be incorporated as part of this management.
- The provisions in the Gore District Plan are reviewed to reflect the above analysis and incorporate within the PDP to align with national and regional policy direction.

In relation to activities on the surface of water, as there are no specific provisions essentially all commercial recreational activities require consents, and it is unclear whether non-commercial recreational activities are controlled by the ODP. Given uncertainty with the current approach, it is not effective or appropriate. Concerns expressed in recent years with regard to commercial activities on the surface of water highlight the need for clarity and unacceptability of the current approach.

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
- Proposed Selwyn District Plan - October 2020

These plans were chosen because they are either part of the greater Southland region, and areas adjoining the Gore District or are up to date with the PS. The Mataura River crosses the boundary of the Southland and Gore Districts and some consistency is therefore desirable. However, both these plans were prepared before the introduction of the National Planning Standards and relevant national direction documents. The Selwyn plan was selected as the district has some similar characteristics to the Gore District, and is an up to date example of a recently reviewed plan.

A table is included at the end of the section for a comparison of methods utilised to manage different issues associated with rivers and their margins.

Southland District

The Southland District Plan does not have a natural character chapter. However, in the rural zone setbacks from wetlands, rivers and lakes apply including:

- 30 metres for dwellings;
- 100 metres for milking sheds and wintering sheds;
- 50 metres from agricultural effluent ponds to waterbodies; and

- 20 metres for cleanfill.

Earthworks are restricted within 20 meters of waterbodies and within riparian margins. Extraction sites and stockpiles of gravel and rock are similarly restricted where the waterbody is greater than 1 metre in width, and sedimentation controls apply.

Biodiversity rules restrict the removal of indigenous vegetation unless it is amenity planting, plantation forestry or for maintenance of network utilities, and infrastructure provision. Additional restrictions also apply within 10 meters of a waterbody.

For subdivisions where lots are less than 4 hectares there are esplanade requirements of a 20 metre strip along the bank of a river 3m wide or greater for protection of water quality and conservation of riparian margins and public access, and where these link up with other nearby reserves for lots above 4 hectares.

The surface water objective of the Southland District Plan is that activities and associated facilities and structures, maintain or enhance socio-economic and recreational opportunities whilst avoiding, remedying and mitigating adverse effects on the environment. Their approach to surface water activities is that the zone rules apply in addition to the specific surface water activity rules.

The provisions allow for functions carried out by Environment Southland and Maritime New Zealand and associated structures. Permitted water surface activities and associated facilities include:

- installation of navigational aids or signs;
- measuring and sampling devices;
- non-commercial recreational activities; and
- the ongoing operation of existing energy generation facilities.

Restrictions apply to non-commercial recreational activities that require speed restrictions to be uplifted, including timing, duration and noise.

Resource consent considerations for other activities include public access to and use of water bodies and their margins and effects on natural character, amenity, and cultural values.

Invercargill City Council

The Invercargill City District Plan does not have specific setbacks to waterways in the zone rules or a natural character chapter, but there are rules restricting new houses and larger scale extensions to houses in areas with a risk of riverine inundation including minimum floor level requirements.

Earthwork restrictions are quantity based and are not restricted near waterways - unless within or on a stopbank. The effects on natural water bodies and established drainage networks is a consideration for earthworks consent applications.

The clearance of indigenous vegetation is restricted within 10 metres of a wetland or rivers. The natural character of the coastal environment, wetlands, lakes and rivers and their margins is also a relevant consideration for energy generation and associated activities.

For subdivisions where lots are less than 4 hectares there are esplanade requirements of a 20 metre strip along the bank of a river 3m wide or greater for public access, and where these link up with other nearby reserves for lots above 4 hectares.

The objectives for activities on the surface of water are to maintain and enhance recreational opportunities and improve public access to rivers and lakes. Policies include to allow for recreational activities, maintain and enhance public access, and consideration of Environment Southland when assessing effects of activities in river and lake beds. The plan does not have specific rules for activities on the surface of water, however commercial recreation activities would require resource consent under the zone rules. The provisions relating to surface of water activities are considered together with access to waterways.

Proposed Selwyn District Plan

The proposed Selwyn District plan has a Natural Character chapter that relates to margins of surface water bodies. The objectives are to preserve natural character and to recognise and provide for tangata whenua and their traditions, values and interests associated with water bodies. Policies seek to recognise and protect the natural character qualities of waterbodies by:

- managing subdivision, earthworks, buildings, structures and planting of vegetation;
- minimising indigenous vegetation clearance; and
- enabling rehabilitation and restoration activities

The natural character qualities are identified to include a natural state, landform and landscape elements, the movement of water and sediment, biodiversity, biological processes, water flow and quality, and the experience of those qualities. The provisions also identify specific waterbodies, or part of, in schedules.

Rules require setbacks from surface water bodies as follows:

- Earthworks – 20m from scheduled waterbodies and 10m from all others in urban zones, 20m setback to all waterbodies in rural zones;
- Buildings and structures (except fence posts) – 100m from lakes, 20m-25m from scheduled waterbodies, and 10m from all others;
- Horticultural plantings - 20m from scheduled waterbodies and 10m from all others; and
- Signs (except directional or official signs) – 20m from scheduled waterbodies and 10m from all others.

Indigenous vegetation clearance is restricted more broadly in the rural area than in relation to surface water bodies.

Public access provisions require:

- esplanade reserves of 20m where lots smaller than 4ha are created; and
- esplanade strips or access strips of 10m along identified surface water bodies in the General Rural Zone.

Activities on the surface of water objectives seek to avoid adverse effects on ecological values. Policies include to enable the use of watercraft, while managing motorised watercraft on high country lakes. The rules permit the use of watercraft generally, but allows only for the use of motorised watercraft for government functions on high country lakes.

The councils currently use a range of district plan methods to manage impacts on streams. Below is a summary table outlining the different methods.

Issue	Invercargill District Plan	Southland District Plan	Selwyn Proposed District Plan
Public access	20m esplanade strip for sites <4.0ha and sites linking to reserves where >4.0ha.	20m esplanade strip for sites <4.0ha and sites linking to reserves where >4.0ha.	20m esplanade strip for sites <4.0ha and 10m strips in specific locations.
Earthworks	Restricted within or on a stopbank.	20 metres from waterbody. Additional volume and size restriction in riparian margin, and within 5 metres and 20 metres.	Rural - 20 metres from waterbody. Urban - 20m or 10m.
Indigenous vegetation clearance	Restricted within 10m of lake or river.	Restricted within 10m of lake or river.	Permitted in urban zones but restricted in rural (broader than in relation to waterbodies).
Buildings and structures	No setback but residences are restricted in areas subject to inundation.	Rural Zone – 30m setback from wetland river or lake for dwelling, 50m from water ag effluent ponds from waterbody, milking and wintering shed 100m, cleanfill 20m.	100m from lakes, 20m-25m from scheduled waterbodies, and 10m from all others. Horticultural planting - 20m from scheduled waterbodies and 10m from all others.
Activities on the surface of Water	Zone rules apply.	Zone rules apply. Allowance for government functions and equipment and recreational activities – otherwise discretionary.	Use of watercraft, Use of motorised watercraft on high country lakes for government functions – otherwise prohibited.

Neither the Southland District or Invercargill City Plans have a specific plan chapter or provisions relating to the natural character of rivers and their margins. These values are managed through other provisions of the plan, such as zone setbacks and water surface activities. Setbacks for rivers typically range from 20m down to 10m. The Southland District Plan has greater distances for some high-risk activities, however some of these may be duplicated with more recent national direction for regional councils. Biodiversity is considered as a natural character quality in the Selwyn plan, and indigenous vegetation

clearance is restricted in the Southland and Invercargill plans. This recognises the importance of riparian margins for indigenous biodiversity.

The values and features associated with waterbodies and their margins across plans include:

- Public use;
- Natural character;
- Amenity and cultural values;
- Wildlife habitats and indigenous biodiversity;
- Water quality and quantity; and
- Natural hazards

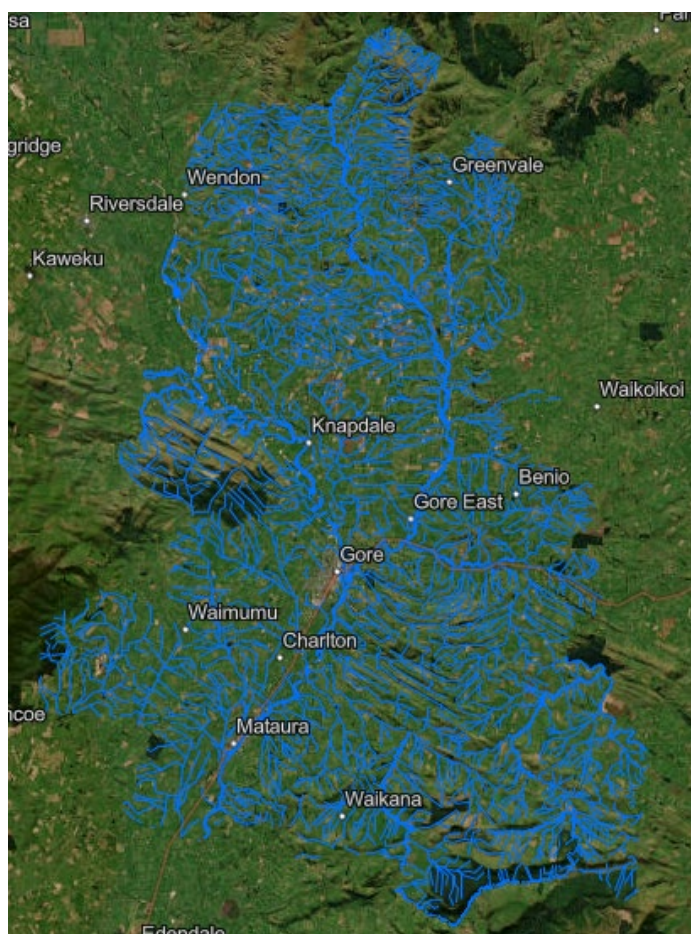
In relation to activities on the surface of water, there is a recognition across plans of the importance for recreation and public use. Where there are specific rules there is an allowance for government functions to be undertaken, and for recreational use and non-motorised watercraft.

4.5 Technical reports

Spatial analysis

A desktop analysis was undertaken in relation to the setback provisions of the ODP.

The Maitava River is the largest river in the district, however there are many other rivers and streams within the Gore District, as shown on the image below.



These waterways range from small unnamed creeks to tributary streams such as the Waimumu Stream, Charlton Stream, the upper Waikaka and Pukerau streams, to rivers such as the Mataura River, and the Waikaka River.

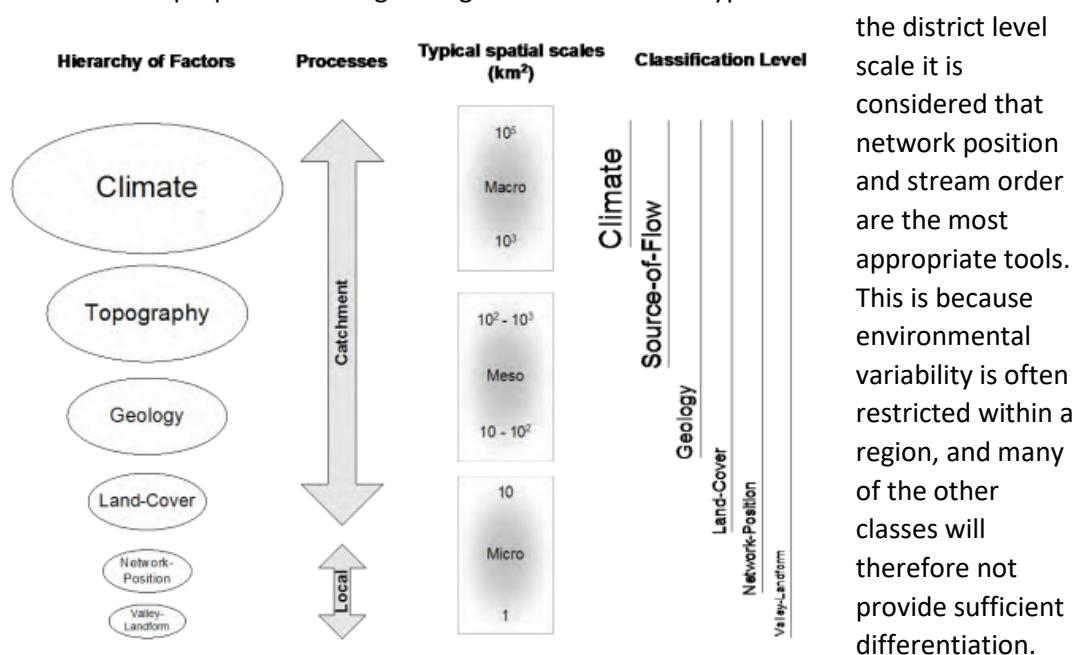
In addition to the 20m setback requirement for the Mataura River, the ODP distinguishes between waterways that are more than 2m wide, however as these are not spatially identified it may therefore not be obvious to plan users whether the setback requirements apply or not. It is however acknowledged that there is a difference between the significance and features of the streams and rivers and having a spatial hierarchy is therefore desirable, The New Zealand River Environment Classification system has been investigated as a potential tool for identifying this spatial hierarchy as detailed below.

New Zealand River Environment Classification User Guide March 2004 (Updated June 2010)

The River Environment Classification system (REC) was produced for the Ministry for the Environment by the National Institute of Water and Atmospheric Research (NIWA) as a resource management tool. REC is a database of catchment spatial attributes, summarised for every segment in New Zealand's network of rivers. The attributes were compiled for the purposes of river classification, while the river network description has been used to underpin models.

The REC organises information about the physical characteristics of New Zealand's rivers. Individual river sections are mapped according to physical factors such as climate, source of flow for the river water, topography, and geology, and catchment land cover eg, forest, pasture or urban. Sections of river that have similar ecological characteristics can then be grouped together, no matter where they are in New Zealand.

The factors are hierarchical as shown in the image below (REC User Guide Figure 1.2 below), however for the purpose of distinguishing between different types of stream and rivers at



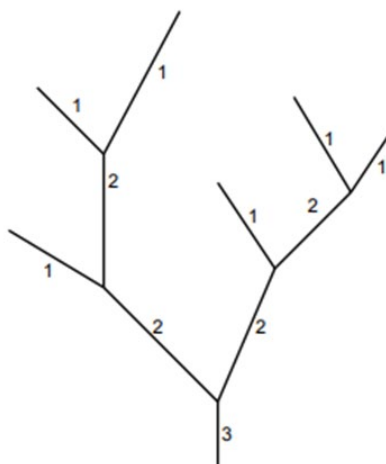
the district level scale it is considered that network position and stream order are the most appropriate tools. This is because environmental variability is often restricted within a region, and many of the other classes will therefore not provide sufficient differentiation.

Figure 1.2 The six factors that define the six hierarchical levels and control physical patterns at different spatial scales in rivers (adapted from Snelder and Biggs 2002).

Network-Position describes the location of a section of river in the network (stream order). The concept of stream order is explained in (REC User Guide Box 5 below).

Box 5. Explanation of the stream order concept

Stream order is the numerical position of a tributary or section of a river within the entire network. Headwater streams are assigned a stream order of 1. When two tributaries of the same stream order meet, the order increments by one for the next section downstream. However, if two sections meet where one section has higher order than the other, the next section downstream has the same order as the highest upstream section. This is illustrated on the diagram below where the numbers are the stream order of the adjacent network sections.



Three Network-Position categories (REC User Guide Table 1.7 below) divide rivers into sections, which are typically 1 to 10 km long. This level characterises variation in fluxes of water, sediment and other constituents of the flow along the network due to increasing catchment area.

Table 1.7 Three Network-Position categories with notations and characteristics.

Network- Position category	Notation	Characteristics of river environment
Low-Order	LO	Headwater streams (Stream order 1 and 2) with little upstream storage. Fluxes of water and water borne constituent (e.g. sediment) move rapidly through with little attenuation.
Middle-Order	MO	Tributaries (Stream order 3 and 4)
High-Order	HO	Main stems (Stream order greater than 4). Main stems have large upstream catchments with appreciable storage. The response of the river to rainfall is 'damped' and variation in concentrations or fluxes of inputs, such as sediment or other contaminants are smoothed by the homogenising effect of catchment storage and upstream mixing.

Network-Position also characterises changes in river environments caused by attenuation of flood flows, homogenisation of flow constituents and changes in the relative contribution of flow from groundwater storage. Network-Position therefore discriminates patterns in aspects of flow including the intensity of flood flows, fluxes of sediment and fluxes of chemicals including nutrients.

The image below shows an overview of the network position stream order concept in the Gore District. High Order streams are shown as dark blue, Middle Order Streams as mid blue and Lower Order streams in light blue.



The network position stream order shows High Order streams to include the Maitara River, Waikaka River and lower Pukerau Streams. The Middle Order streams include Waimumu Stream, Charlton Stream, and the upper Waikaka and Pukerau streams, and Low Order streams as small unnamed creeks and headwaters. These categories appear to broadly follow the significance and size of the waterways. The PDP provisions can therefore utilise the REC spatial framework as a resource management tool to spatially identify and differentiate between streams and rivers in the district to establish appropriate setback requirements.

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	There is a degree of protection of river margins in the ODP, and the PDP builds on this approach. Similarly, land use zone rules in the ODP should apply to activities on the surface of water but will have be specifically addressed in the PDP.		X	
Scale of effects – geographically (local, district wide, regional, national).	Streams and rivers spread across the whole district, although most are located in the rural areas. The streams and rivers range from small creeks to the Maitara 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			X
Scale of effects on people (how many will be affected – single landowners, multiple landowners, neighbourhoods, the public generally, future generations?).	Although the streams and rivers are spread across the district, it is primarily rural landowners who will be affected by setback requirements and activities undertaken on the surface of water. The protection and management of water, and 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 freshwater management, and streams and rivers have significance to the 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?	Freshwater management is mostly a regional Council matter, however the District Council manages the effects of land use and development. National and regional direction documents provide clear direction, and there is commonly accepted best practice	X		
Likelihood of increased costs or restrictions on individuals, communities or businesses.	There is a cost associated with applying for resource consent and the PDP stream setbacks apply more broadly, however this is balanced with a reduced lower setback distance and there is a consenting		X	

	Comments	Assessment		
		Low	Medium	High
	pathway for works and development in river margins.			

5.2 Evaluation Summary

In summary the issues are generally of medium-high significance. While the management of water resources has a number of components that are of national importance under Part 2 of the RMA (including natural character, significant indigenous vegetation, significant habitats of indigenous fauna, public access and the relationship of Maori and their culture and traditions with water), the role that the Council has under s31 of the RMA in relation to freshwater management is restricted to the management of the effects of land use and development.

The ODP already has setback requirements for rivers, and the PDP utilises a similar approach which is familiar to plan users, but updates it to align with current best practice, national and regional direction.

The pressure to undertake commercial activities on the surface of water and river margins in the district is low and the degree of conflict between uses at this time is also low. That is assisted in part by the management of when activities such as jet boating may be undertaken on the waterways.

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 – Urban Form and Development and 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 who were supportive of including stream setback provisions across the plan. The rūnanga and have also reviewed and provided feedback on the Activities on the Surface of Water chapter to ensure consistency with the Mana Whenua Chapter, and that Ngāi Tahu cultural values are appropriately integrated throughout the proposed provisions.

6.2 Community engagement and feedback

Engagement with the community on the draft District Plan was undertaken 10th August 2022 to 30th September 2022.

Feedback in relation to the provisions for Activities on the Surface of Water (ASW) was received from key stakeholders including government agencies such as the Department of Conservation, the New Zealand Defence Force and the National Public Health Service, and interest groups such as New Zealand Professional Fishing Guides' Association Royal Forest

and Bird Protection Society of New Zealand. The feedback was broadly supportive, particularly in relation to allowing for guided fishing, allowing for government agencies to use motorised craft to undertake their statutory functions, and restricting commercial activities to protect wildlife habitats and indigenous biodiversity. Suggested changes to the provisions included the need to protect and manage water quality, manage adverse effects on aquatic and riparian ecosystems, wildlife habitats and indigenous biodiversity, and to make allowance for important infrastructure that has an operational or functional need to be located on or above the surface of water bodies.

Feedback in relation to stream setbacks was received from Southland Federated Farmers, the Department of Conservation and Alliance Group. Federated Farmers expressed that they consider the setbacks impractical from a farming perspective, and that public access along rivers may not be compatible with private property rights. The Department of Conservation supports the requirement for setbacks from streams and suggested that it should also apply to wetlands. They also recommended to clarify where the setback from the watercourse is measured from. Alliance Group sought that their site in Mātaura be exempt from the setback standard as they believe there are no riparian values in this location.

Response summary

In response to the feedback a new policy (ASW-P4) was added to the PDP. The policy seeks to manage the effects of activities on the surface of water on the values of the waterbody - similar to the stream setback standards to offer protection for multiple values - including water quality, ecosystems and indigenous biodiversity, public access, cultural values and customary rights.

The ASW policy in the draft plan that related to the location of structures and infrastructure on or above the surface of water bodies was merged with the ASW policy to give effect to the Water Conservation Order in the PDP (ASW-P6). The text in the policy was also amended to 'limit to ensure' instead of 'avoid' and referring to maintaining flow of water, and safe environments rather than hazards, and resilience to climate change, to be clearer about what are the criteria for suitable locations.

Consideration of protected customary rights (Mātaura River Mātaitai Reserve bylaws) together with Māori cultural practices and activities has been included with the policy relating to the compatibility of commercial activities ASW-P5 in the PDP, instead of together with the draft plan policy to give effect to the Water conservation order.

Minor administrative changes to the draft plan to improve alignment, consistency or clarity, including addition of notes and the terminology relating to activities has been made to the PDP. Notes have been included in the ASW chapter to refer to rules in other chapters and other relevant regulations/legislation.

No changes from the draft plan have been made to the stream setback standard, except to specify that the setback is measured from the top of the bank. The permitted standard is intended as a cost-effective risk mitigation measure to protect multiple stream values, although not all of them may be relevant in all instances. The standard allows for a reduced setback based on the stream order, and site-specific conditions and circumstances can be considered through a resource consent process. If a reduction of the setback standard distance was to be considered this would likely require technical expert advice.

The feedback received on the ASW chapter and the changes made in response are summarised in Appendix 1. The draft plan provisions had setback standards for rivers and streams across all zones for all buildings, structures and earthworks, and the feedback received is also summarised in the respective chapter Section 32 reports.

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.

In terms of rivers and their margins, Objective UFD-O1 relates to ensuring 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.

UFD – O1 The district develops in a cohesive, compact and structured way that:

- 1. maintains a compact urban form;*
- 2. minimises adverse impacts on natural and cultural values;*
- 3. recognises the relationship of Māori with their culture, traditions, lands, waterbodies, sites, areas and landscapes and other taonga of significance;*
- 4. provides for social and cultural vitality, productivity and economic growth*
- 5. takes into account the short, medium, and long term impacts of climate change and natural hazards, and the associated uncertainty*
- 6. Utilises existing infrastructure and/or can be efficiently serviced with new infrastructure*
- 7. meets the community's short, medium and long-term housing and business needs, and*
- 8. responds to the underlying relationships Ngāi Tahu hold with the natural environment*

There are no specific objectives in the Mana Whenua chapter, however the chapter articulates mana whenua and Te Taiao values. Ki uta ki tai is a holistic environmental philosophy that forms the basis of mana whenua approach to resource management, which recognises the environment as an undivided entity, and is also recognised by national and regional direction documents. Wai is one of the most important elements within a Ngāi Tahu worldview, and mana whenua have a kaitiaki role in protecting it and a right to access resources for mahinga kai and harvesting in accordance with tikanga.

Moreover, the Sites and Areas of Significance to Maori chapter with its holistic approach to resource management consists of overarching objectives and policies for land use and development. These direct the ways the Gore District Plan recognises and protects the historic and contemporary relationship of Māori with the natural environment, and places where cultural practices are undertaken within the Gore District, such as rivers and their margins. The objectives with particular relevance are:

SASM-O1 All land, waterbodies, natural features, and marae within Gore District are recognised as sites and areas of cultural significance to mana whenua and/or

tangata whenua, and are afforded appropriate considerations in relation to their management, development, and use.

SASM-O2 Traditional and contemporary mana whenua and tangata whenua relationships with land, waterbodies, natural features, and cultural structures are recognised, retained, and strengthened.

7.2 Objectives, Policies, Rules and Definitions

The proposed objectives, policies, rules, standards and definitions have been drafted to address the resource management issues relating to rivers and their margins as identified in section 2.1 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 following provisions in relation to rivers and their margins are proposed:

Activities on the Surface of Water
Objectives
The objectives seek to: • provide for recreational, social and economic opportunities for the community; • to maintain and enhances the values associated with water bodies; and • to recognise and provide for Maori cultural activities and relationships with waterbodies.
Policies
The policies: • promote and facilitate the recreational and cultural use of water bodies and prioritise the health and safety of those uses; • allow for monitoring and testing equipment; and • manage: ○ the effects of activities to maintain or enhance river values; ○ commercial activities to ensure they are compatible with the values of the waterbody, surrounding land uses and customary rights; ○ the type and location of structures and infrastructure to ensure they are consistent with the Maitake River Water Conservation Order, maintain flow of water and a safe environment for surface water activities.
Rules
There are seven Permitted Activity rules which provide for: • Navigational aids or signage; • Measuring and monitoring equipment; • Operation and maintenance of established infrastructure; • Use of motorised watercraft for government statutory functions; • Sport and recreation activities using non-motorised watercraft and specified periods, locations and speeds for using motorised watercraft; • Commercial fishing guides using non-motorised watercraft; • Existing activities. All other activities are Discretionary Activities, except for any damming structures which are prohibited on the Maitake River, Waikaiti River and Otamaiti Stream.

River and stream setback standard

The setback standard applies across all zones for buildings and structures, and district wide for earthworks and requires a minimum setback of:

- 20m for high order rivers or streams (order 5 and above)
- 10m for middle order rivers or streams (order 3 and 4)
- 5m for low order rivers or streams (order 1 and 2)

Works and development that does not comply with the standard is assessed as a Restricted Discretionary activity with matters of discretion relating to:

- Functional need
- Stream health and water quality
- Indigenous vegetation and habitats
- Natural character and landscape values
- Ngāi Tahu cultural values
- Public and customary access
- Flooding effects

Definitions

The following definitions are relevant:

functional need

Has the same meaning as per the National Planning Standards - means the need for a proposal or activity to traverse, locate or operate in a particular environment because the activity can only occur in that environment.

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).

stream

Means a continually or intermittently flowing natural body of fresh water and includes headwaters and smaller tributaries to rivers or other streams.

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

Other plan chapters with provisions that have relevance to rivers and their margins include:

- Mana Whenua values and Sites and Areas of Significance to Māori
- Ecosystems and Indigenous Biodiversity
- Natural Features and Landscapes
- Public Access
- Natural Hazards
- Subdivision

Those provisions are addressed in the respective S32 evaluation report for the topic.

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 Objectives	Appropriateness to achieve the purpose of the Act
In relation margins of the Mataura River the ODP includes the following objectives: 2.4.3(1) To preserve the natural character of the margins of the Mataura River. 2.4.3(2) To provide public access along the margins of the Mataura River where this is practical and can be safely undertaken without adversely affecting the use of adjoining land.	The objectives provide some guidance to decision makers around the management of the use development and protection of a natural and physical resource as set out in Section 5(2) of the RMA around the values of the Mataura River. The objectives relate to two matters of national importance - Section 6(a) relating to natural character and 6(d) relating to public access. The objectives however do not address other Section 6 matters with relevance, and do not recognise or provide for the values of river and stream margins of other waterbodies more broadly and are therefore not considered to fully achieve the purpose of the Act. Relevance and Usefulness The objectives are relevant to some of the values of the Mataura River and useful to guide decision making in that context. However, for other relevant matters and for streams and rivers more broadly they provide little guidance and are of limited usefulness. Reasonableness The provisions are unlikely to result in unjustifiably high costs to individual landowners and developers, but may also not achieve desirable outcomes for the community and the environment. Achievability The provisions seek outcomes within the scope of Council's responsibilities and can be realistically achieved through regulations at a district level.
There are no specific objectives in the ODP relating to: • margins of rivers and streams other than the Mataura River • activities on the surface of water however, the following objectives would broadly direct the decision maker in respect of character and amenity values and the quality of the environment: 3.3(1) Maintain and enhance the amenity values of the various localities within the District whilst respecting the different values and characteristics that exist within each area. 3.3(2) Ensure that the effects of land use activities do not adversely affect the quality of the environment and are compatible with the characteristics and amenity values of each locality	These objectives provide high level guidance to decision makers around the expectations for maintaining, enhancing and managing adverse effects on amenity values within the district and in this respect they are broadly consistent with RMA Section 5(2)(c) but are not considered to fully achieve the purpose of the Act due to the lack of specific clarity and direction. Relevance and Usefulness Due to the broad nature of these objectives, they are of limited relevance and provide little guidance and direction therefore they are of limited usefulness to decision makers or applicants. Reasonableness The provisions are unlikely to result in unjustifiably high costs on individual landowners and developers, although the lack of clarity and direction in the objectives may increase costs and uncertainty in a situation where there is dispute over the outcome of a non-compliance. The lack of provisions may however not achieve desirable outcomes for the community and the environment. Achievability The provisions seek outcomes within the scope of Council's responsibilities and can be realistically achieved through regulations at a district level.
Proposed Objectives	Appropriateness to achieve the purpose of the Act
ASW-O1 Activities on the surface of water and associated facilities and structures contribute to sustainable recreational and socio-economic opportunities for the community and maintains and enhances the values associated with water bodies on which surface water activities take place. ASW-O2 Mana whenua and tangata whenua are able to express their cultural relationships with the waterways in the Gore District, and continue to practice various cultural activities or rituals	The objectives are considered the most appropriate way to achieve the purpose of the Act because they: • are 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, (e) Maori 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) kaitakitanga, (c) amenity values, (d) ecosystems, (f) quality of the environment, and (h) trout and salmon habitat. • addresses the requirement of s8 of the RMA to take into account the principles of the Treaty of Waitangi.

without being unreasonably restricted by other activities and their associated facilities or structures.	Relevance The objectives address the resource management issues identified and seek to provide for activities on the surface of water and manage their effects, recognise the underlying relationship Ngāi Tahu hold with the natural environment, provide for cultural and traditional activities and protect customary rights. The objectives also assist the Council to undertake its functions under s31 by the control of any actual or potential effects of activities in relation to the surface of water in rivers and lakes and give effect to the Maitara River water conservation order, national planning standards, and national and regional policy documents. Usefulness: The objectives guide decision making by providing clear direction on what the intended outcome is and describes the end state, that activities on the surface of water that provide recreational and socio-economic opportunities for the community should be provided for, the values of the waterbody on which surface the activities takes place should be maintained and enhanced, and Māori cultural and traditional activities are provided for. Reasonableness: The objectives are unlikely to result in an unjustifiable cost on the community as they provide for recreational, social, cultural and economic opportunities. Although there may be some cost associated with managing the effects on the values associated with the waterbody this is not considered unreasonable. Achievability: The objectives are consistent with identified tangata whenua outcomes, provide for social and economic opportunities for the community and can realistically be achieved within the Council's powers, skills and resources.
Objectives with relevance to rivers and their margins for outcomes sought in relation to Section 6 matters of national importance are included in the following PDP chapters: • Sites and Areas of Significance to Māori • Ecosystems and Indigenous Biodiversity • Natural Features and Landscapes • Public Access • Natural Hazards Objectives with relevance to the management of use and development and protection of land around rivers and their margins are included in the following PDP chapters: • Urban Form and Development • Relevant Zone chapters • Earthworks chapter	The evaluation of the individual objectives are considered within the relevant S32 report for the topic or area. However, the approach is considered appropriate to achieve the purpose of the Act because combined they: • Are 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 health and values of waterbodies and manages adverse effects on the environment. • Recognise and provide for Section 6 matters of national importance including relating to (a) the preservation of the natural character of rivers, (b) rivers as a landscape feature, (c) indigenous vegetation and habitats, (d) public access along rivers, (e) Maori cultural and traditional relationships, (g) protected customary rights and (h) natural hazards. • Have regard to Section 7 other matters in the protection use and management of the natural resource including (a) kaitiakitanga, (c) amenity values, (d) ecosystems, (f) quality of the environment, (h) trout and salmon habitat.

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).

Option A – Proposed Provisions		
Activities on the Surface of Water		
Policies and rules which give effect to the proposed objectives are summarised in Section 7.2 and include the following features: The policies: • promote and facilitate the recreational and cultural use of water bodies and seek to prioritise the health and safety of those uses • allows for equipment and infrastructure with a functional need • manages: - o the effects of activities to maintain or enhance river values - o commercial activities to ensure they are compatible with the values of the waterbody, surrounding land uses and customary rights - o the type and location of structures and infrastructure to ensure they are consistent with the Mataura River Water Conservation Order, maintain flow of water and a safe environment for surface water activities Rules permit: • A range of activities associated with government statutory functions, such as monitoring, health and safety • Operation and maintenance of established infrastructure • Sport and recreation activities using non-motorised watercraft and specified periods, locations and speeds for using motorised watercraft • Commercial fishing guides using non-motorised watercraft • Existing activities All other activities are discretionary activities, except for any damming structures which are prohibited on the Mataura River, Waikaia River and Otamita Stream		
Benefits		Costs
Environmental	The provisions have environmental benefits as they seek to manage the effects of activities, and to maintain and enhance the environmental values of waterbodies. Commercial activities are limited to ensure these are compatible with environmental values and outcomes. Fishing guides are considered a	Allowing use of the surface of waterbodies creates a minor risk to environmental values. However, the list of permitted activities is relatively restricted, with the exception of commercial fishing guides, to either what are part of the existing environment, or for required practical reasons such as

	special case because of the long period the activity has been undertaken in the district, and its low environmental impact. The provisions give effect to higher order documents relating to freshwater management by managing activities and the Mataura River Water Conservation order by prohibiting damming and maintaining flow rates in the waterbody. The provisions provide for testing and monitoring and the undertaking of statutory functions by other government agencies, and this would include Environment Southland, to support them in managing the health of the waterbody. The effects of climate change have been given regard to in respect of activities on the surface of water by the management of effects of the values of the waterbody, including water quality and quantity.	navigational aids, monitoring or testing equipment and infrastructure. The need to obtain consents for other activities seeks to manage such effects.
Economic	The provisions promote recreational uses and this can provide for longer stays by visitors and an increase in commercial activities, both of which bring economic benefit to the District. Expanding the list of permitted activities to refer to commercial fishing guides, navigation and monitoring facilities and existing infrastructure removes any need for future resource consents which has an economic benefit to those organisations or persons. The provisions also seek to avoid duplication of consent requirements with Environment Southland, and the cost associated with those. Regard was given to adopting the permitted activity rule in the Southland District Plan where jetboating events are proposed for consistency. However, these rules merely duplicate the conditions imposed by the Harbour Master, and that person is better suited to ensure compliance than the Gore District Council. In addition, the 5kph speed restriction does not apply for two months of the year, at a time when fishing is not allowed, and recreational use is low. As a consequence, there appears no RMA reason why the District Plan Review rules should impact on jetboating activities under these circumstances. A consent is required however when uplifting of speed restrictions (to consult whether this is necessary). No noise rule applying to jetboats has been included in the PDP either, as the use of the river by motorised craft is low, and no complaints with such noise has been received by the Council in the past ten years. Further, Jetboating NZ has rules in place in relation to noise, including penalties that apply during competition events if noise standards are breached. This is an effective means of control, and no additional provisions are considered to be required in the PDP. RMA Section 10A requires those activities established prior to the proposed District Plan becoming operative to apply for a land use consent within six months of the Plan becoming operative. The Council considers current use of the district's waterways to be legitimate and sustainable and therefore a rule has been included to remove the need for existing legally established activities and structures to obtain consent, which has an economic benefit to those organisations or persons.	Allowing use of the surface of waterbodies creates a minor risk to environmental values and monitoring of the effects of activities will be required, this is a cost to the Council. Operators of new commercial activities will require resource consent approval and that has associated costs, financially and in time which may discourage some operators from seeking approval for new ventures. However, that does not change the status quo.
Social	The provisions promote recreational and cultural use of water bodies and prioritise the health and safety of those users, including the use of watercrafts. The consideration of the compatibility of new commercial activities with amenity values, public access use and enjoyment, and the associated effects are considered to have social benefits for the community.	Allowing a wider range of activities than currently provided for could be considered to result in an increased potential for conflict between users and activities. However, the list of permitted activities is relatively restricted, and most commercial activities would need a resource consent. The compatibility of the activity with other uses and the scale of effects would be assessed through that process.
Cultural	The provisions recognise Ngāi Tahu cultural values, provide for cultural uses, and seek to ensure commercial activities are compatible with protected customary rights and Māori cultural practices and activities.	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		

There are a number of improved efficiency outcomes associated with the PDP provisions. These include 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: • give effect national and regional direction documents; • enable the Council to fulfil its statutory obligations, including duties imposed on the Council by s31 of the RMA; • ensure that adverse effects from activities on the surface of water are managed appropriately by rules which control new activities, restricts the use of motorised watercraft, and limits structures and activities based on their compatibility with a range of values and surrounding users; • enables the operational and functional requirements for government agencies, recreational activities, existing activities and commercial fishing guides; and • enable the Council to effectively administer its District Plan in a clear and consistent manner.		
River and Stream Margins		
Policies, rules and standards which give effect to the proposed objectives are summarised in Section 7.2 and include the following features: A setback standard that applies across all zones for buildings, structures and earthworks, seeking to manage the effects of works and development on a broad range of values associated with rivers and their margins.		
Benefits		Costs
Environmental	Protects a broad range of streams values and stream health by restricting earthworks buildings and structures near rivers and streams. The provisions recognise and provide for consideration a range of Section 6 matters associated with rivers and their margins - such as natural character, landscape values, indigenous biodiversity, public access, mana whenua cultural values and customary rights, and flood risk management. The PDP offers additional protection relating to those matters (which are covered in the respective S32 report for the topic). Moreover, the setback requirements are considered to assist in achieving outcomes consistent with Section 7 matters - such as having regard to kaitiakitanga, the maintenance and enhancement of amenity values and the quality of the environment, the protection of the habitat of trout and salmon and the intrinsic values of ecosystems. The provisions give effect to higher order documents relating to freshwater management - such as the Mataura River Water Conservation order, the NPS-FM and the RPS - by adopting an integrated approach to managing development and works along river margins that could impact on water flow and fisheries, to protect stream health freshwater ecosystems and water quality.	The stream order classification is not refined based on other environmental factors that could impact on the extent of the required riparian buffer to protect river values, for example slope, soil type, cover and surrounding land use may be of relevance. Although the setbacks are likely to overall offer good protection, there is a potential risk that in some areas the setback may be an insufficient buffer.
Economic	The utilisation of the River Environmental Classification spatial framework in the identification and differentiation of rivers and streams is a practical and cost-effective method for Council as the data already exists as a resource management tool. The mapping of streams and rivers provides more certainty for landowners where and when the setback applies. Moreover, allowing for three different stream order categories also gives the opportunity to have a more nuanced approach to setbacks, rather than a minimum setback of 10 metres, with economic benefits to individual property owners.	There is an associated opportunity cost of restricting use of private land, and a cost to individuals to apply for resource consent for development and works within setbacks. However, the ODP already has some setbacks requirements for rivers and streams and the restriction is therefore not entirely new. The proposed provisions do not increase the upper setback of 20m, and reduce the ODP setback distance from 6 metres down to 5 metres, although setbacks apply more broadly. Overall, it is considered that the opportunity cost is somewhat balanced by the reduced setback and that there is a consenting pathway for works and development.
Social	The setback can contribute to positive community outcomes such as the maintenance and enhancement of opportunities for future public access, the quality of the environment and amenity values.	May cause conflict between those seeking to fully utilise land and those who see the development of a community and district wide asset.

	The PDP method is familiar to plan users, as it builds on the ODP provisions which already have some setbacks requirements for waterways. The range of setback is also familiar ranging between 20 metres and 5 metres (instead of 20m and 6m in the ODP). The approach of using setbacks to manage a range of values is consistent with the District Plan approach in the Southland region. The 20 metre setback distance is the width of a standard RMA esplanade strip, and is also consistent with best practice. The streams and rivers and their order are clearly identified which makes it easier for plan users to know when and what setback applies.	
Cultural	The provisions are consistent with the Ki Uta Ki Tai environmental philosophy in that it takes a holistic approach to stream and river values and offers a degree of protection of a range of interconnected natural environmental values such as stream health, water quality and riparian plants and habitats. Cultural associations and relationships with rivers are recognised through requiring consideration of Ngāi Tahu cultural values, including kaitiakitanga, and the effect on customary access to rivers.	None identified
Efficiency and effectiveness		
The setback standard is considered an efficient approach to achieving the objectives, with a relatively simple method that achieves broad protection with environmental, social, economic and cultural benefits that outweigh the costs of the restrictions. The utilisation of the River Environmental Classification Spatial Framework is considered a cost-effective method in the identification and differentiation of rivers and streams in the district, and the three stream order categories allows for a nuanced approach to setbacks lessening the associated cost to individuals in applying for resource consent for works and development close to waterbodies. The proposed provisions are considered to be the most effective means of achieving the objective as together they will: • Enable Council to fulfil its statutory obligations and functions under the RMA; • Recognise and provide for Section 6 matters and having regard to Section 7 matters in resource management; • Give effect to higher order documents, including the Maitai River Water Conservation order, the NPS-FM and the SRPS in relation to integrated freshwater management and provides for consideration of public access along rivers and streams, and recognises these as natural features that can contribute to flood mitigation; • ensure development and works along river margins that could impact on stream values are managed, whilst avoiding unnecessary duplication with Regional Council functions and plan requirements; • address the identified resource management issues; and • enable the Council to effectively administer its District Plan and to monitor the outcomes of the proposed provisions in a clear and consistent manner.		
Option B – Status Quo		
Policies, rules and standards of the operative plan are detailed in Section 4.2 and include the following features: Policies that: • Control the adverse effects of land use activities on the margins of the Maitai River; • Seek to maintain and enhance public access to and along the Maitai River except where this will affect public health or safety, or where site security would be compromised; • Broadly relate to the general management of effects of land use apply to activities on the surface of water. Rules that: • Restrict structures, earthworks and mining or quarrying activities within 20m of the Maitai River where land is zoned Rural; • Require an esplanade strip of 10m when a lot of less than 4.0ha is created adjacent to the Maitai River and or the Waikaka Stream for licensed sports fisher access; • Requires buildings in the Rural Zone to be set back 6 metres from any waterway more than 2 metres in width; • Require consent for all recreational and commercial recreational activities in the Rural Zone (which includes surface of water activities).		
Benefits		Costs
Environmental	The operative plan offers a degree of environmental protection for the Maitai River and waterways over 2m wide.	The provisions do not sufficiently manage many potential environmental effects and lack clarity and direction, they provide no guidance for: • management of activities on the surface of water

	All recreational and commercial recreational activities are in theory managed (although not applied in practice)	the potential adverse effects that are sought to be managed by the setback requirements for waterways (except for the Mataura River) The provisions do not protect any of the smaller streams or tributaries and do not address the resource management issues which have been identified for rivers and their margins. The status quo therefore comes at an environmental cost and is not considered to have given effect to higher order documents relating to freshwater management.
Economic	A low regulatory environment requires a small compliance and opportunity cost to individuals and is familiar.	The Matura River provides an economic opportunity in relation to trout fishing tourism that is not recognised or provided for. Under the ODP rules all recreational and commercial recreational activities require resource consent, although this requirement is not enforced in practice, it is a potential cost to the community and for individuals. There may be a long-term economic cost to a low regulatory framework, in that there could be an associated cost to remediate waterways and their margins that could have been avoided by appropriately managing effects.
Social	There are some requirements for limited public access to Matura River and or the Waikaka Stream for licensed sports fisher access.	Limited provisions for public access has a cost related to limited recreational opportunities for the community.
Cultural	Offers some protection of waterways, although with no reference of the cultural importance of water and significance of waterways.	Does not address or recognise the cultural importance of water and waterways and does not provide for customary access or activities Although the significance of the Mataura River to Mana Whenua is recognised by statutory acknowledgement, there are no provisions that directly relate to it or that directs decision makers to the consideration of effects on cultural values.
Efficiency and effectiveness		
The current provisions are not considered efficient approach to achieving the objectives as the environmental, economic, social and cultural costs outweigh the benefits. The existing provisions lack clarity and direction and do not clearly address the issues which have been identified and which the proposed objectives address. The provisions also mean that essentially all commercial recreational activities undertaken on rivers or in their margins require consents and it is unclear whether non-commercial recreational activities are controlled by the Gore District Plan. The provisions are also not considered the most effective way in which to achieve the objective because they: - would not give effect to the Council's responsibilities under Part 2 of the RMA; - do not give effect to higher order documents in relation to freshwater management including the Mataura River Water Conservation order, the NPS-FM and the RPS; and - would leave a gap in the management of riparian margins in relation to activities that Environment Southland cannot address under section 30 of the RMA.		
Risk of acting or not acting		
The effects of activities and development in river margins and on the surface of water are generally well understood. There is also sufficient knowledge of activities undertaken on and around the waterways of the district and the benefits of protecting stream and river values to enable identification of the relevant resource management issues and the appropriate responses to those issues. Due to the importance of the Mataura River as a trout fishery, as recognised in the Water Conservation Order, and its value for public recreation, amenity values and natural and wildlife conservation values, the risk of not acting could result in unintended consequences and adverse environmental outcomes that impacted on the sustainable management of the water resources and the activities that take place there. The status quo does not effectively provide for activities on the surface of water and have insufficient provision in relation to rivers and their margins and as such the risk of not acting may result in a failure for to give effect to its statutory obligations and higher order documents.		
Overall Evaluation		
The preferred option is the PDP 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 activities to occur to benefit the community whilst managing the potential adverse effects of development and activities on or around rivers on the 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 rivers and their margins, including the stream and river setback standard for buildings structures and earthworks across all zones and provisions within the Activities on the Surface of Water chapters. 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 managing works and development within riparian margins and on the surface of water that could affect a range of values associated with streams and rivers and their margins, and controlling commercial and motorised watercraft activities on the surface of water is considered to be the most appropriate way to achieve the purpose of the RMA. Moreover, the proposed provisions give effect to higher order documents related to freshwater management and will enable Council to undertake its statutory functions under the Act. The social, cultural and environmental benefits of the proposed provisions are considered to outweigh the costs to individuals in restricting new commercial activities and development around rivers and streams. The recommended provisions assessed in this report are the most appropriate for the District Plan, having considered other reasonably practicable options and having assessed their efficiency and effectiveness.

Appendix 1. Feedback Summary

Person / Organisation	Feedback summary	Response
National Public Health Service – Southern	• Recommends including policies relating to freshwater quality management, including: ○ Reducing or mitigating agricultural risk ○ Management plans for cyanobacteria and cyanotoxin ○ Prevention of sewage and wastewater contamination ○ Identifying and protecting lowland sites at risk to contamination ○ Managing of catchment for drinking water sources and abstraction ○ Management for when human sourced bacteria are identified at any freshwater bathing site ○ Flood management ○ Shellfish monitoring • Recommends including rules relating to freshwater quality management, including: ○ Fencing, riparian planting, and better wastewater treatment ○ Protecting groundwater sources ○ Stock exclusion form waterways	The management and protection of water quality, wastewater treatment, discharges and water takes, or flood management is primarily a regional Council function. Stock exclusions are also managed through separate national legislation introduced with the NPS FM. To support regional council and other government agencies in relation to water quality and safety, monitoring and testing equipment/infrastructure is enabled, as is the use of motorised watercraft to undertake these functions. Stream setback standards for earthworks and buildings/structures across the zones are intended to offer protection for multiple values, including water quality, but these could be adapted to also apply to surface of water activities.
New Zealand Defense Force	• Supports the allowance to use motorised craft for government agencies to undertake statutory functions	Retain rule as drafted
New Zealand Professional Fishing Guides' Association	• Supports providing for guided fishing as a permitted activity	Retain rule as drafted
Department of Conservation	• Supports the limitation of commercial surface water activities, in particular motorised vessels, to ensure they are compatible with wildlife habitats and indigenous biodiversity. • Suggests including a reference to the Ecosystems and Indigenous Biodiversity chapter of the plan where the native species and habitats are identified	Retain as rule as drafted and include notes with reference to other chapters and legislation
Royal Forest and Bird Protection Society of New Zealand	• Supports the restriction of commercial surface water activities to protect the natural values and amenity of the water body and its margins, and to protect wildlife habitats and indigenous biodiversity. • Recommends including a policy that provides for the management of adverse effects on aquatic and riparian ecosystems, wildlife habitats and indigenous biodiversity and Significant Natural Areas.	Retain rule as drafted, and add a new policy to manage the effects of activities. The activity status trips, or defaults, to a Discretionary Activity and a ‘manage’ policy fits within that context. However in some respects the suggested policy may be a better fit in the Ecosystems and Indigenous Biodiversity chapter, or as a crossover.
Transpower Limited	• Concerned about the use of the term ‘avoid’ in relation to locating structures and infrastructure on or above the surface of water bodies (ASW-P5) as this could potentially prevent the location of important infrastructure. Transmission lines can be a ‘safe navigation hazard’. • Recommends amending the wording of the policy to provide an exception for infrastructure that has an operational or functional need.	The ‘avoid’ wording of the policy does not entirely align with the activity status of the rule framework, and although it is specific to structures and infrastructure damming of water (which is also prohibited in specific locations under the water conservation order) or that creates a navigational hazard it also does not allow for infrastructure such as transmission lines that do not make it unsafe to navigate underneath. The policy can be amended to allow for these and ‘limit to ensure’.
Feedback Summary		
Feedback in relation to the provisions for Activities on the Surface of Water was received from key stakeholders including government agencies such as the Department of Conservation, the New Zealand Defence Force and the National Public Health Service, and interest groups such as New Zealand Professional Fishing Guides' Association Royal Forest and Bird Protection Society of New Zealand. The feedback was broadly supportive, in particular relating to allowing for guided fishing, allowing for government agencies to use motorised craft to undertake their statutory functions, and restricting commercial activities to protect wildlife habitats and indigenous biodiversity. Recommendations included to protect and manage water quality, manage adverse effects on aquatic and riparian ecosystems, wildlife habitats and indigenous biodiversity, and to make allowance for important infrastructure that has an operational or functional need to be located on or above the surface of water bodies.		
Response summary		
To add a new policy that seeks to manage the effects of activities on the surface of water on the values of the waterbody, similar to the stream setback standards to offer protection for multiple values, including water quality, ecosystems and indigenous biodiversity. The activity status of the rule framework trips, or defaults, to a Discretionary Activity and a ‘manage’ policy fits within that context. To amend the policy that relates to the location of structures and infrastructure on or above the surface of water bodies to be merged with the policy to give effect to the Water Conservation Order, and amended to ‘limit to ensure’ instead of ‘avoid’ and referring to maintaining flow of water, safe environments rather than hazards, and resilience to climate change, to be clearer about what are the criteria for suitable locations.		

To include consideration of protected customary rights (Mataura River Mātaitai Reserve bylaws) together with Māori cultural practices and activities of the policy relating to the compatibility of commercial activities, instead of together with the policy to give effect to the Water conservation order.

To adopt other minor administrative changes to improve alignment, consistency or clarity, including addition of notes and the terminology relating to activities.