ACTIVITIES ON THE SURFACE OF WATER – ASW

Overview

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

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

While different user groups of the ~~waterways~~ *waterbodies* perceive conflict between their activities from time to time, this is not at a scale that requires exclusive separation of activities or other management approaches. Motorised activities do however have the potential to impact on ~~the amenity of the waterways and adjoining land~~. other users, the amenity of the surrounding *environment*, and the natural *environment* values associated with the district's rivers. The provisions of this chapter seek to manage these adverse effects, while also providing for the sustainable use of motorised craft.[1]

Discharges to *water*, taking and using *water*, and *structures* and *bed* disturbance activities in *river beds* may require resource consent approval from Environment Southland. In addition, the Southland Regional Council Navigation Safety Bylaws 2009[2] applies to the Gore District and is also administered by Environment Southland.

Objectives

ASW-O1 Activities on the surface of *water* and associated facilities and *structures:*

1. contribute to sustainable recreational, social and economic opportunities for the community;
2. maintain and enhance the values associated with *waterbodies* on which surface *water* activities take place; and

[1] Decision 40, paragraphs 3.2.5
[2] Decision 40, paragraphs 3.2.5

3. are resilient to the *effect* of *climate change*.

ASW-O2 *Mana whenua* and *tangata whenua* are able to express their cultural relationships with the ~~waterways~~ water bodies and continue to practice ~~various~~ *mahinga kai* and *Māori customary* ~~cultural~~ *activities* ~~or rituals~~[3] without being unreasonably restricted by other activities and their associated facilities or *structures*.

Policies

ASW-P1 Facilitate and promote the recreational and cultural use of *waterbodies*.

ASW-P2 Prioritise the health and safety of those undertaking non-*commercial* and non-motorised recreational and *mahinga kai and Māori customary* ~~cultural~~[4] a*ctivities* within *waterbodies* and their margins.

ASW-P3 Enable the location of *critical infrastructure* and equipment used for monitoring or testing, where there is a *functional need* or *operational need* for this to be located on or above the surface of *waterbodies*.[5]

ASW-P4 Manage the *effects* of activities undertaken on the surface of *water* to maintain or enhance:

1. the natural character, landscape values and amenity of the *waterbody* and its margins;
2. *water* quality and quantity;
3. aquatic and riparian *ecosystems*, wildlife habitats and indigenous biodiversity;
4. public and customary *access*, customary rights, use and enjoyment of that locality; and
5. Ngāi Tahu cultural values ~~including those listed in MW-2.3~~ listed in MW1.2[6]

ASW-P5 Limit *commercial* surface *water* activities to those that are compatible with:

1. the values of that *waterbody*, including:
   (a) the natural values and amenity of the *waterbody* and its margins;
   (b) wildlife habitats and indigenous biodiversity;

[3] Decision 40, paragraph 3.4.4
[4] Decision 40, paragraph 3.4.5
[5] Decision 40, paragraph 3.6.3
[6] Consequential to Decision 14

(c) public use and enjoyment of that locality; and

(d) Ngāi Tahu cultural values ~~including those listed in MW-2.3~~ listed in MW1.2[7]; ~~and~~

2. the surrounding *land* uses and established *infrastructure*; and

3. protected customary rights and ~~Māori cultural practices and~~ *mahinga kai* and *Māori customary*[8] *activities.*

ASW-P6 Limit activities, *structures* and *infrastructure* on or above the surface of *waterbodies* to ensure these are consistent with the provisions of the Mataura River Water Conservation Order, and that their location:

1. maintains the flow of *water* in that *waterbody*;
2. maintains a safe environment for surface *water* activities, including the navigation of watercraft; and
3. is resilient to the *effects* of *climate change.*

~~Notes~~[9]

~~Note 1~~	~~Provisions in Other Chapters~~
	~~The provisions in this chapter apply in addition to the provisions of the other chapters in the District Plan and the plan should be read as a whole.~~ ~~This chapter also implements other chapters in the District Plan that do not have specific rules such as Sites and Areas of Significance to Māori and Mana Whenua.~~
~~Note 2~~	~~Water Conservation (Mataura River) Order 1997~~
	~~The Mataura River and its tributaries are subject to the Mataura River Water Conservation Order 1997. The order refers to outstanding fisheries and angling amenity features and includes various provisions to preserve and protect these features including a minimum flow regime, standards that must be met by any *discharges* into the *waters* and a prohibition on the construction of any dam on any of these waterways~~

[7] Consequential to Decision 14
[8] Decision 40, paragraph 3.4.5
[9] Decision 40, paragraph 3.10.1

~~**Note 3**~~	~~**Mataura River Mātaitai Reserve**~~
	~~The Mataura River Mātaitai Reserve is established under the Fisheries Act 1996 and applies to a section of the Mataura River up and downstream of the Mataura Falls/ Te Au Nui Pihapiha Kanakana. The reserve protects Ngāi Tahu customary rights and all *commercial fishing* is prohibited within the reserve. The Mataura River Mātaitai Reserve Bylaws applies. Under the bylaws no person, with the exception of customary fishing authorised by Tangata Tiaki/Kaitiaki, may take or possess Lamprey, Shortfin or Longfin eel; or use, set or possess any fyke net.~~
~~**Note 4**~~	~~**Statutory Acknowledgement**~~
	~~The Mataura River and its tributaries are a statutory acknowledgment area in terms of the Ngāi Tahu Claims Settlement Act 1998 to recognise Ngāi Tahu's cultural, spiritual, historic, and traditional association to the Mataura River.~~

Rules

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

ASW-R6	**Any activity that was lawfully established before the date this District Plan became operative**	
Surface of all *Wate bBodies*	**Activity status:** Permitted Where: 1. The scale, intensity, and character remains the same or similar.	**Activity status where compliance is not achieved:** Discretionary
ASW-R7	***Sport and Recreation Activity***	
Mataura River	[10]**Activity status:** Permitted Where: 1. The activity ~~does not utilise~~ involves the use of any motorised or non-motorised watercraft; ~~or~~ and 2. Organised events by Jet Boating New Zealand Incorporated, its member clubs or branches exceeding four motorised watercraft are limited to: (a) one event during the period 1 August to 30 September; and (b) one event each month in April and May. ~~2. The activity uses motorised watercraft at a speed of less than 5 knots on any part of the Mataura River (excluding its tributaries); or~~ ~~(a) the activity, including events organised by member clubs of the NZ Jet boating Association, occurs during the period 1 August to 30 September.~~ ~~(b) at other times, during the period 1 October to 31 July, motorised craft must not travel at a speed that~~	**Activity status where compliance is not achieved:** Discretionary

[10] Decision 40, paragraph 4.1.21

	~~exceeds 5knots.~~ ~~Except that~~ ~~3. Within that part of the Mataura River shown on the District Plan Maps within the area of water 300 metres long and 100 metres wide, 4.8 kilometres downstream from Gore at Beattie's Beach the activity may be undertaken at any time; or~~ Note: ~~*This*~~ *The activity permitted by Rule ASW-R7(2) may also requires approval* ~~*under*~~ *from the Southland Regional Council* ~~*Navigation Safety Bylaws 2009 (revised 2015) administered by Environment Southland*~~	
ASW-R8	**All other activities**	
Surface of all *Waterb~~B~~odies*	**Activity status:** Discretionary 1. Any activities and associated facilities and *structures* on the surface of *waterbodies* not provided for in the list of rules.	**Activity status where compliance is not achieved:** N/A
ASW-R9	**Damming waters**	
Mataura River, Otamita Stream, and tributaries to the Mataura upstream of Otamita Stream	**Activity status:** Prohibited Where: 1. The construction and use of any *structure* that has the *effect* of damming the *waters* of Mataura River, Otamita Stream. or any other tributaries of the Mataura River upstream of its confluence with the Otamita Stream.	**Activity status where compliance is not achieved:** N/A