

SECTION 5 : WATER SURFACE AND MARGIN RESOURCE AREA

5.1 INTRODUCTION

This section applies to all those areas identified as “Water Surface and Margin Resource Area” on the planning maps and all other areas of water surface in the district.

Note: Policies 4.4.4, 4.4.5, 4.4.7, 4.4.10, 4.4.12 and 4.4.13; Methods 4.5.2 and 4.5.3; and Standard 4.7.6K also apply to the Water Surface and Margin Resource Area.

Council is responsible for the control of any actual or potential effects of activities in relation to the surface of water in rivers and lakes in terms of section 31(3) of the Act. It should be noted, however, that the Council does not have the authority in terms of other legislation to control safety and navigation in respect of boats using waterways except for Lake Dunstan (see clause 5.5.3). Notwithstanding this the Council's function in terms of section 31(e) of the Act stands.

The surface of water in any lake or river, for the purpose of the Act, is included in the definition of “land” by the provisions of section 9(5). Under section 9(4), the word “use” in relation the surface of rivers and lakes includes the use and erection of structures, any destruction or the disturbance of the habitats of plants or animals, or the deposit of any substance, and any entry on to, or passing across, the surface.

The Council has a responsibility to control the effects of activities which include recreational and commercial boating in powered and non-powered craft, navigational aids, jetties, wharves and mooring areas. These activities, to a large degree, also impact on the margin of the water body they utilise. To achieve integrated management, areas where water surface activities interface with lake and river margins have also been included in this Resource Area. This will enable water surface activities that also require land based facilities to be dealt with in one section of the plan. Water margins that are not located within this Resource Area are provided for in the Rural Resource Area of the Plan (see Section 4).

The Otago Regional Council has complementary responsibilities regarding the beds of water bodies. The control of structures on the bed of Lake Dunstan is a function that has been transferred from the Otago Regional Council to the Central Otago District Council.

The land area included in this Resource Area also incorporates land affected by the operating easement for the hydro electric power stations located upon the Clutha River at Roxburgh and Clyde. This will provide for the continued day to day operation of these power stations and the extent of the operating easements are shown on plans presented as Schedules 19.12 and 19.13. It should be noted that structures erected on the water surface for the purpose of generating energy are dealt with in Section 13 Infrastructure, Energy and Utilities of this Plan.

5.2 ISSUES

The significant resource management issues of the Water Surface and Margin Resource Area are set out below. For a discussion of these issues refer to Section 2.4 Water Resources page 2.19.

5.2.1 Effects on Water bodies

Many of the District's water bodies are significant recreational, ecological and economic resources. These values are capable of being compromised by land use (including water surface activities) which may have the following adverse effects:

- (a) a decrease in the stability of the beds and banks of water bodies,
- (b) degradation of plant and animal habitats within or adjacent to water bodies,
- (c) a decrease in the stability of structures located in or near water bodies,
- (d) degradation of amenity, natural character, landscape and historic values of water bodies and their margins,
- (e) an increase in the incidence of plant and animal pests,
- (f) threats to the safety of other users,
- (g) adverse noise effects, and
- (h) restrictions on public access to and along the margins of lakes and rivers.

These effects can also lead to a reduction in water quality, water quantity and cultural values.

Cross Reference
Section 2.4.2,
2.4.3,
Objectives: 5.3.1
to 5.3.5

5.2.2 Access to Lakes and Rivers

Public access to and along the margins of the District's lakes and rivers is important to existing and future residents and visitors to the District. Riparian access is not always available for public health and safety or operational reasons and is capable of being obstructed by development adjacent to lakes and rivers.

Cross Reference
Section 2.4.4
Objective 5.3.2
Section 15
Financial
Contributions
Section 16
Subdivision

5.2.3 Land and Water Surface Interface

Activities that utilise the surface of water bodies often require facilities on the adjacent land margin. Such facilities can include jetties, boat-sheds, commercial buildings, parking areas, toilets, and other public amenities. These facilities are often an integral part of the activity but they can have adverse effects on the environment particularly in terms of their impact on visual amenity values, public access, and the adjoining road network. For some activities the margins of a water body is the only location where they can operate efficiently (eg pumps, bridges etc). The operation of hydro electric power stations can also interact with the land margin adjacent to the water body itself and this has resource management implications for activities that may wish to locate or operate in these areas.

Cross Reference
Objectives 5.3.1
to 5.3.5

Explanation

Access to the water for activities such as boating (including

kayaking, rafting and river surfing), fishing tours and other commercial operations is generally concentrated in small areas of lake/river margins. This may put great pressure on the resources of these areas and can create conflict between the different types of activities that utilise the water surface.

Management of these areas must also recognise the locational requirements of certain activities which need to locate at the edge of water bodies and the operating easements of the Roxburgh and Clyde Dams.

5.3 OBJECTIVES

- 5.3.1 Objective – Amenity Values, Environmental Quality and Natural Character**
To maintain and enhance the amenity values and environmental quality, and to preserve the natural character of the District’s lakes and rivers and their margins.
- Cross Reference*
Issues: 5.2.1 to 5.2.3
Policies: 5.4.1 to 5.4.6
- 5.3.2 Objective – Recreational Values**
To maintain, where appropriate, the recreational values of the surface and margins of the District’s water bodies.
- Cross Reference*
Issue 5.2.1
Policies: 5.4.1, 5.4.2, 5.4.3, 5.4.5, 5.4.6
- 5.3.3 Objective - Public Access**
To maintain and enhance, where appropriate, public access, to and along the surface and margins of the District’s lakes and rivers.
- Cross Reference*
Issue 5.2.2
Policies: 5.4.1, 5.4.6
- 5.3.4 Objective - Safe and Efficient Navigation**
To ensure that the safety and efficiency of navigation is maintained on the surface of the District’s water bodies.
- Cross Reference*
Issue 5.2.1
Policy 5.4.1, 5.4.2
- 5.3.5 Objective - Cultural Values**
To recognise and provide for Kai Tahu ki Otago’s spiritual beliefs, cultural traditions and practices in the management of the surface and margins of the District’s water bodies.
- Cross Reference*
Issue 5.2.1
Policy 5.4.1,
Section 3
Manawhenua
- 5.3.6 Objective - Existing Hydro Electric Power Stations**
To provide for the continued operation, maintenance, refurbishment and enhancement of existing hydro electric power stations and associated facilities.
- Cross Reference*
Issue 5.2.3
Policy 5.4.4

5.4 POLICIES

5.4.1 Policy - Water Surface and Margin Activities

To manage the effects of activities (including the design, location and/or operation of structures) upon the water surface and margins to ensure that:

- (a) The safe and efficient navigation of any powered or non-powered craft using the water surface is not compromised;
- (b) Ecological values including significant indigenous vegetation and significant habitats of indigenous fauna and instream values of the water body are protected and where appropriate, enhanced;
- (c) The protection of amenity, recreational and landscape values in or near the water body is promoted or otherwise provided for;
- (d) Conflict with other resource users on the water surface and adjoining land, including the effects that noise and/or wave generation may have, are avoided, remedied or mitigated;
- (e) The quality of the water within the water body is maintained and/or enhanced;
- (f) The stability of the bed and bank of the water body is maintained and/or enhanced;
- (g) The stability of any structure located in, on or near the water body is maintained;
- (h) The severity and incidence of flooding is not exacerbated by the activity;
- (i) The safe and efficient operation of the adjacent road network is maintained and enhanced;
- (j) Public access (where appropriate) is provided for;
- (k) The spread of undesirable aquatic plants is avoided, remedied or mitigated; and
- (l) The integrity of Kai Tahu ki Otago's spiritual beliefs, cultural traditions and practices in respect of water resources is considered.

Cross Reference

Objectives: 5.3.1 to 5.3.5

Methods: 5.5.2, 5.5.3

Rules: 5.7.2 5.7.3, 5.7.4

Explanation

The District's water bodies are used for a number of different activities including recreational activities, some of which are of outstanding quality. These activities may compromise the aesthetic, cultural and ecological values of water bodies as well as adversely impacting on each other. The Regional Plan : Water has rules for activities within the beds of lakes and rivers. The District Plan controls effects on water of activities on the surface and margins in terms of both plans.

5.4.2 Policy - Existing Statutory Instruments

To ensure that the management of activities undertaken upon the surface of the District's water bodies is consistent with the following instruments:

- (a) The Water Recreation Regulations 1979.
- (b) The Lake Dunstan Harbour Bylaw 1996 in respect of the waters of Lake Dunstan.
- (c) The Kawarau River Water Conservation Order in

Cross Reference

Objectives 5.3.1, 5.3.2, 5.3.4

Methods: 5.5.3, 5.5.4, 5.5.5, 5.5.6

respect of the waters of the Kawarau River and its tributaries.

(d) Shipping (Distress Signals and Prevention of Collisions) Regulations 1988.

Explanation

Section 32 of the Act requires Council to consider methods available under other enactments to achieve the purpose of the Resource Management Act. The instruments identified in this policy, to an extent, address the adverse effects of activities using the surface of water bodies. It is appropriate that the management of such activities in this plan is consistent with the Regulations and other controls contained within these instruments. However, it is recognised that these controls are not well suited to addressing site specific issues such as the effect of commercial boating activities on a particular part of the environment.

5.4.3 Policy - Facilities Associated with Water Surface Activities

To encourage water surface users to develop joint facilities in order to promote the efficient use of these areas and reduce the impact on amenity values.

Cross Reference
Objectives: 5.3.1,
5.3.2
Method: 5.5.3

Explanation

Facilities associated with water surface activities can have significant adverse effects on the environment. Developing common jetties, parking areas, ticketing offices, boat-sheds etc will assist in reducing this impact.

5.4.4 Policy - Existing Hydro Electric Power Stations

To enable the ongoing operation of existing hydro electric power stations while ensuring other activities do not compromise their efficiency.

Cross Reference
Objective: 5.3.6
Method: 5.5.2
Schedule 19.3

Explanation

The boundary of this Resource Area coincides with the operating easements of the existing hydro electric power stations located in the District. These stations are nationally important facilities, with Clyde and Roxburgh representing significant public investment. It is important that they can continue their existing operations without interference from other activities.

5.4.5 Policy – Recreation

To recognise the importance of lakes and rivers and their margins to the existing and future recreational needs of the District's people and visitors while ensuring that adverse effects on amenity values and environmental quality are avoided, remedied or mitigated by such activities and that the safety of the recreational users is not compromised.

Cross Reference
Objectives: 5.3.1,
5.3.2
Methods: 5.5.2,
5.5.3, 5.5.6, 5.5.7
Rules: 5.7.1, 5.7.4

Explanation

The margins of the District's lakes and rivers (particularly Lake Dunstan) are an integral part of the life-style offered by Central Otago. This must be recognised in the management of these resources.

5.4.6 Policy - Public Access

To ensure activities make adequate provision for public access except where a restriction is necessary:

- (i) To protect areas of significant indigenous vegetation and/or significant habitats of indigenous fauna;**
- (ii) To protect Kai Tahu ki Otago's cultural values;**
- (iii) To protect public health and safety;**
- (iv) To provide an appropriate level of security for the continued operation of existing hydro electric power stations; or**
- (v) In other circumstances that justify the restriction notwithstanding the national importance of maintaining public access.**

Cross Reference
Objectives: 5.3.3,
5.3.5
Method: 5.5.2
Section 15
Financial
Contributions
Section 16
Subdivision

Explanation

Access to the surface and margins of the District's water bodies is a matter of national importance and is an important component of Central Otago life. Public access should not be restricted unless circumstances exist that justify such action.

5.4.7 Other Policies

Policies 4.4.4, 4.4.5, 4.4.7, 4.4.10, 4.4.12 and 4.4.13 apply in the Water Surface and Margin Resource Area.

5.5 METHODS OF IMPLEMENTATION

5.5.1 **Creation of the Water Surface and Margin Resource Area**

The district planning maps identify the “Water Surface and Margin Resource Area” as being the area so identified on those maps. The “Water Surface and Margin Resource Area” also applies to all other areas of water surface in the District. Margins not identified on the planning maps as “Water Surface and Margin Resource Area” are subject to the provisions of the resource area within which those margins are located.

Cross References
All policies

Reason

The Central Otago District contains a significant area of water surface, the use of which is extremely varied. Identifying this area as distinct from the rural area of the District best promotes the sustainable management of the District’s areas of water surface. The inclusion of certain areas of adjoining land in this resource area will promote the integrated management of this resource.

5.5.2 **Rules**

To develop rules to ensure that the significant adverse effects of activities are avoided, remedied or mitigated, and to ensure that the safety of existing users is not adversely affected.

Cross Reference
Policy 5.4.1,
5.4.4, 5.4.5, 5.4.6

Reason

Council has considered and adopted a wide range of methods to promote the sustainable management of the District’s water surface and margins including the continued use of existing legislation. However, in some instances the adverse effects of activities are such that some form of control is needed. Rules are the most appropriate option in these situations as they are the only methods that can be readily enforced.

5.5.3 **Water Recreation Regulations 1979, the Lake Dunstan Harbour Bylaw 1996 and Speed Limit on Upper Clutha**

Section 32 of the Act requires Council to have regard to other means under other enactments that may be used in achieving the purpose of the Resource Management Act. The following Regulations and Bylaw are already in place and deal with activities on the surface of water bodies. **Specific reference should be made to the documents themselves as they will be subject to change during the life of this district plan.**

Cross Reference
Policies: 5.4.1,
5.4.2

(i) Water Recreation Regulations 1979

All activities (excluding the erection of structures) undertaken on the surface of any water body in the District are subject to the provisions of the Water Recreation Regulations 1979. These Regulations currently provide for the following matters:

- The control of excessive noise by small craft.

- Age limits for operating small craft.
- Speed restrictions on small craft (not to exceed 9 kms per hour ie 5 knots) within 30 metres of any other craft or person in the water, or within 200 metres of the shore or any structure).
- A general duty to mitigate the effects of waves breaking against the shore or any structures.
- Safety measures in respect of water-skiing.
- Reserving areas of water for water-skiing and other activities.

Because of these Regulations, Council has not regulated non-commercial activities further and therefore such activities (excluding structures) are permitted provided they comply with these Regulations. Table 5.1 below identifies those waterways that have had the speed restriction uplifted and the areas specifically reserved pursuant to the provisions of the Water Recreation Regulations 1979 by notice in the Gazette.

Council shall monitor water surface activities throughout the District to ensure they are operating within these Regulations.

TABLE 5.1 : WATER BODIES OF CENTRAL OTAGO WHERE WATER RECREATION REGULATIONS HAVE BEEN MODIFIED

| WATERWAY | REGULATION | DESCRIPTION |
|---|----------------------------------|--|
| Blue Lake ¹ | 7(1) a&b, 7(2) 8(1) a&b, 8(2) | All waters except southern portion, 9am to 12 noon and 3pm to 6pm |
| Clutha River & Lake Roxburgh ² | 7(1) a&b, 7(2) 8(1) a&b, 8(2) | From Clyde Bridge near Clyde Dam downstream |
| Lake Dunstan ³ | 7(1) a&b, 7(2) 8(1) a&b, 8(2) | Kawarau & Clutha Arms of Lake Dunstan and Kawarau River to a point 4.1 kilometres upstream of Kawarau Gorge Mining Centre footbridge, excluding Bannockburn Inlet, Dairy Creek Swimming Area, Lowburn Inlet, Lowburn Raft, Sander's Inlet, Weatherall Creek. |
| Lake Dunstan ³ | 7(1) a&b, 7(2) 8(1) a&b, 8(2) | Access lanes at Champagne Gully, Dunstan View, Lowburn Peninsula, Northburn. |

Note: ¹ NZ Gazette 1980 p 4067

Note: ² NZ Gazette 1992 p 4524

Note: ³ NZ Gazette 1996

(ii) The Lake Dunstan Harbour Bylaw 1996

The waters of Lake Dunstan are subject to a Bylaw that was originally prepared in 1994 by the Otago Regional Council under

the Harbours Act 1950. The statutory responsibility for safety and navigation on the lake, including the administration of the Bylaw was transferred to the Central Otago District Council on 1 December 1994. The Bylaw has since been updated, and the current Bylaw became operative on 8th June 1996.

The Bylaw has the effect of uplifting speed limits on the Clutha and Kawarau Arms of Lake Dunstan and the Kawarau River upstream to a point 4.1 kilometres upstream of the Kawarau Gorge Mining Centre footbridge. This excludes the following areas which are areas designated as “Non-motorised zones” within which no person may operate a motor vessel. These areas include:

- Bannockburn Inlet (part)
- Dairy Creek swimming area
- Lowburn Inlet (part)
- Lowburn Raft
- Sander’s Inlet
- Weatherall Creek

The part of Lowburn Inlet that is not identified as a non-motorised zone retains the 9 km per hour (ie 5 knot) speed limit as set by the Water Recreation Regulations 1979.

The Bylaw also designates as “water-ski access lane” for water-skiing all those areas of water in the Clutha and Kawarau Arms of Lake Dunstan bound by lines marked by ski lane marker posts and buoys at the following locations:

- Champagne Gully
- Dunstan View
- Fernbrook
- Lowburn Peninsula
- Northburn

The localities referred to above are shown on the map on page 5:11.

The Bylaw also allows the Harbourmaster, in order to prevent risk or accident to shipping or to prevent over-crowding or confusion in the lake, to give directions for all or any of the following purposes, namely:

- (a) For regulating the time and manner in which any vessel may enter into, depart from, or lie in Lake Dunstan.
- (b) For regulating the position, mooring, unmooring, placing, removing and securing of any vessel within Lake Dunstan.
- (c) For regulating the manner in which any vessel in Lake Dunstan, or at any wharf, dock or landing place in the lake, may take in or discharge its cargo or any part thereof or take in or discharge ballast:
- (d) For regulating the time and manner in which any vessel may lie at any wharf, dock, or landing place in Lake Dunstan, and the position, securing or unsecuring, placing or removing of any vessel lying at such a structure.

Council shall monitor water surface activities on the waters of Lake Dunstan to ensure they are operating within the Bylaw.

Reason

These instruments, to an extent, address the adverse effects of activities using the surface of water bodies. Consequently Council does not consider it necessary to regulate activities to any greater extent than these instruments already provide unless a Rule specifically provides to the contrary. In such circumstances it is recognised that these instruments are not well suited to addressing site specific issues such as the effect of commercial boating activities on a particular part of the environment.

(iii) Speed Limit on the Upper Clutha River

Council shall promote to the Maritime Safety Authority that the speed limit on the upper Clutha River above Lake Dunstan (excluding any part of the Bendigo Wildlife Refuge) be uplifted.

Reason

The Clutha River has a long history of boating activity and there

has been no enforcement of the 9 km (5 knot) restriction in this area. Being one of the largest rivers in the country, removal of the speed limit will have little impact on other users.

5.5.4 Regional Plan

The proposed Regional Plan : Water for Otago has been publicly notified. The Regional Plan : Water provides a framework for the management of Otago's water resources and includes rules which control any adverse effects which have the potential to adversely affect the water resource and its associated values. These rules may require consents from the Otago Regional Council in addition to any consents for the use of the surface of the water that are required by the Central Otago District Council.

*Cross Reference
Policy: 5.4.2*

Reason

The District Plan must not be inconsistent with any Regional Plan.

5.5.5 Kawarau River Water Conservation Order

The Kawarau River is subject to a Water Conservation Order made pursuant to section 214 of the Act. In terms of the Central Otago District this order recognises a number of outstanding amenity and intrinsic values of the Kawarau and Nevis Rivers.

*Cross Reference
Policy 5.4.2*

Council shall monitor surface water activities on the Kawarau River to ensure they are operating in a manner consistent with the Kawarau River Water Conservation Order. The Act requires that Council have regard to any Order when considering any application for resource consent including for land use activity on land in the vicinity of the river.

Reason

The District Plan must not be inconsistent with any water conservation order and the Council must have regard to the Kawarau River Conservation Order when considering any application for a resource consent.

5.5.6 Shipping (Distress Signals and Prevention of Collisions) Regulations 1988

The Shipping (Distress Signals and Prevention of Collisions) Regulations 1988 provide for safe and efficient navigation. In particular, they require vessels to maintain a proper look out and to avoid collision by all available means appropriate in the prevailing circumstances. They also require vessels to proceed at a safe speed so that collisions can be avoided.

*Cross Reference
Policy 5.4.1*

Reason

People using boats should be made aware of the Regulations in place in respect of navigational safety.

5.5.7 Advocacy on Weed Management

Council shall advocate to the Otago Regional Council and Central Government that increased financial commitment be given to education and publicity in an effort to prevent spread of lakeweed to non infested water bodies, as well as management, control and

containment, or eradication if practicable.

Reason

Invasion of lagarosiphon and other aquatic weeds into the District's lakes and rivers has the potential to seriously affect the District's tourism and recreational opportunities, as well as degrading habitat and natural character values. Increased financial commitment is needed if this is to be avoided.

5.5.8 Other Methods

Methods of Implementation 4.5.2 and 4.5.3 apply in the Water Surface and Margin Resource Area.

5.6 PRINCIPAL REASONS FOR ADOPTING OBJECTIVES, POLICIES AND METHODS

Council's functions in relation to the effects of using land extend to the surface of water bodies by virtue of the definition of land contained in section 9 of the Act which includes the "surface of water in any lake or river." The use of the water surface has been identified as a significant resource management issue in the Central Otago District and is of particular significance in the context of Lake Dunstan.

Section 6(a) of the Act requires the Council to recognise and provide for the preservation of the natural character of wetlands and lakes and rivers and their margins and the protection of them from inappropriate subdivision, use and development as a matter of national importance. Section 6(e) also identifies the relationship of Maori and their culture and traditions with ancestral waters as a matter of national importance that must be recognised and provided for.

The principal reason for adopting the approach taken in this plan is to complement existing instruments rather than to duplicate controls on activities that utilise the water surface.

5.7 RULES

Notes: 1. In considering a resource consent application under rules in this Plan, in the absence of specific policy in this Plan the Council may have regard to other policies related to assessment matters, including relevant policies in the Regional Policy Statement for Otago, and regional plans.

2. Rules relating to power generation facilities are contained in Section 13 Infrastructure, Energy and Utilities of this Plan. See also Sections 3 and 14 – Manawhenua and Heritage Buildings, Places, Sites, Objects and Trees.

5.7.1 PERMITTED ACTIVITIES

Cross Reference
Policy 5.4.1.
5.4.2

(i) **Compliance with Standards**

Any activity that is not listed as a discretionary (restricted) activity or discretionary activity and that complies with the conditions set out in Section 5.7.4 is a permitted activity.

Reason

Activities undertaken (excluding the erection of structures) on the surface of the Districts water bodies are subject to the provisions of the Water Recreation Regulations 1979 or the Lake Dunstan Harbour Bylaw 1996. Consequently, no further controls are considered necessary.

(ii) **Scheduled Activities and Existing Community Facilities**

Any scheduled activity identified in Clauses 19.3.2, 19.3.3 and 19.3.5 of Schedule 19.3 and identified as a scheduled activity on the planning maps and any other community facility or recreational activity lawfully established prior to notification of this plan is a permitted activity.

Reason

See reference at Section 1.2.9 of this Plan (page 1:12).

Cross Reference
See also Rule
13.7.4

5.7.2 DISCRETIONARY (RESTRICTED) ACTIVITIES

Cross Reference
Policy 5.4.1

- (a) Extensions to existing buildings are discretionary (restricted) activities.

Council shall restrict the exercise of its discretion to the following matters:

1. The bulk, location and design (including colour) of the building.
2. Landscaping and other works to mitigate visual impact.
3. The provision of parking.
4. The adequacy of waste disposal systems.
5. The effect on the safe and efficient operation of the roading network.
6. The provision of public access.
7. Any earthworks necessary to give effect to the works.

- (b) Earthworks within 10 metres of a water body, other than in association with any scheduled activity identified in Clauses 19.3.2, 19.3.3 or 19.3.5 of Schedule 19.3, recreational activity, underground utilities permitted in terms of Rules 13.7.9 and 13.7.10, structure permitted by the plan or the development of a walkway or reserve or cleanfill landfill, or activities/works

5.7.2(b)
(cont'd)

permitted by any relevant Regional Plan shall be a discretionary (restricted) activity.

Council shall restrict the exercise of its discretion to the following matters, where applicable:

1. The effect on water quality.
2. The intrinsic values of riparian and aquatic ecosystems.
3. The habitat of native fish species, trout and salmon.
4. Indigenous vegetation and habitats of indigenous wildlife and statutorily managed sports fish and game.
5. The effects on bank and slope stability.
6. The location, timing of construction and design of earthworks.
7. The re-establishment of an appropriate vegetation cover.
8. The disposal and stabilisation of waste material and fill.
9. The impact on landscape values.
10. The effect on heritage sites, including archaeological sites.
11. The effect on sites of cultural value to Kai Tahu ki Otago.

- (c) The removal of vegetation from within 10 metres of any water body, except as set out below, is a discretionary (restricted) activity.

Council shall restrict the exercise of its discretion to the following matters, where applicable:

1. The effect on water quality and quantity.
2. The intrinsic values of riparian and aquatic ecosystems.
3. The habitat of native fish species, trout and salmon.
4. Indigenous vegetation and habitats of indigenous wildlife and statutorily managed sports fish and game.
5. The effects on bank and slope stability.
6. The re-establishment of an appropriate vegetation cover.
7. The impact on landscape values.
8. The effect on heritage sites, including archaeological sites.
9. The effect on sites of cultural value to Kai Tahu ki Otago.

This rule does not apply to the following circumstances:

- a. The removal of undesirable weeds or plants,
- b. The removal of vegetation planted for commercial purposes prior to the date of notification of this plan,
- c. Removal as the result of the grazing of stock or the maintenance of reserves,
- d. Removal of vegetation as the result of permitted activities, for the safe and efficient operation of the road network, for the construction of walkways and reserves, or activities/works permitted by any relevant Regional Plan, or
- e. Removal of vegetation in association with any scheduled activity identified in Clauses 19.3.2, 19.3.3 or 19.3.5 of

5.7.2(c) *(cont'd)*

Schedule 19.3 or any recreational activity

Provided that any adverse effects on the water body and its margin are avoided, remedied or mitigated by ensuring that:

1. No disturbed vegetation, soil or debris is placed in any water body or is placed in such a position where it may enter or move into any water body, and
2. Riparian margins are restored and rehabilitated to a standard necessary to ensure that the margin remains in a stable condition.

Reason

The activities identified in this rule have the potential to adversely affect the natural character and amenity values of water bodies.

5.7.3 DISCRETIONARY ACTIVITIES

(a) Breach of Standards

Any activity that fails to comply with the standards set out in Rule 5.7.4 is a discretionary activity.

Cross Reference
Policy 5.4.1

Reason

Non-compliance with these standards and conditions can have significant adverse environmental effects. Commercial boating activity unless appropriately controlled (such as by conditions of resource consent) can have a significant adverse effect on the surrounding environment.

(b) Subdivision

Subdivision shall be a discretionary activity.

Cross Reference
Policy 5.4.1, 5.4.3, 5.4.4

Reason

Subdivision is often the precursor to a more intensive level of development. Discretionary activity status will allow a full consideration of any potential effects.

5.7.4 STANDARDS

A. Structures

No structures shall be erected other than:

- (i) Navigational aids, beacons, buoys and other structures whose sole or primary purpose is to provide for public safety.
- (ii) River monitoring and recording facilities. Such facilities may include a stilling tower, and/or instrument housing not exceeding 2.5m by 2.5m, a catwalk directly from the adjacent river bank to the housing and associated telemetry and power supply housings. The stilling tower, instrument housing(s) and catwalk are to be not more than 2.5 metres in height above the predicted maximum flood level and are to be finished in a colour or colours

Cross Reference
Policy 5.4.1, 5.4.2

Breach:
discretionary activity see Rule 5.7.3(a)

that blend with the surrounding landscape.

- (iii) Warning, safety and information signs not exceeding 3m².
- (iv) Bridges and culverts provided fish passage is not restricted and scouring is avoided.
- (v) Maimai provided that:
 - (a) The structure is a maximum size of 4m².
 - (b) The structure is open piled.
 - (c) The placement of the structure complies with the regulations controlling maimai promulgated in terms of the Wildlife Act.
 - (d) The structure is not located on the surface and/or margin of Lake Dunstan.
- (vii) Picnic tables, barbecues and waste receptacles.
- (vii) Public ablation facilities provided appropriate waste disposal systems are installed and authorised by the relevant authority.
- (viii) Structures necessary for the taking and carrying of water, including intake structures, races, pipelines, and associated irrigation works, pumps and treatment plants no larger than 9m² in area and 2 metres in height and provided their design and colour blends with the environment.
- (ix) Structures associated with any scheduled activity provided for in Schedule 19.3 or Rules 13.7.4(i) and (ii).

Provided that the erection of structures identified in (i) to (viii) above does not:

1. Obstruct public access to or along the margins of lakes and rivers;
2. Create disturbance to the margin of the water body that is more than minor; or
3. Compromise safe and efficient navigation.

Note: In some circumstances a consent may be required from the Regional Council for structures that are attached to the bed of any water body.

Reason

There is a common law right to navigate the waters of New Zealand. The right of navigation is paramount beyond 30 metres from the water's edge. It is essential that this right is maintained and only restricted to provide for specific activities that are limited to a particular area because of their operational needs.

To maintain navigational standards, Council considers it appropriate that all structures proposed to be erected on the water surface, apart from those listed, are authorised by resource consent.

Furthermore, section 395(1A) of the Act requires Council to forward a copy of any application for land use consent for any entry onto, or passing across, the surface of a navigable river or lake to the Minister of Transport. The Minister then reports on navigational matters relating to the application, including any conditions the Minister considers appropriate.

5.7.4A (cont'd)

Section 203 of the Harbours Act 1950 requires approval of navigational aids by the Maritime Transport Division of the Ministry of Transport before they can be erected and are required to meet international standards with respect to colour, shape and coding. Navigational aids are site specific and are designed to provide for safety. Because of this, Council considers that navigational aids should be provided for as permitted activities.

Council also considers that signs which address safety issues should be provided for as permitted activities. These include the marking of particular areas (for example, water ski lanes); warning notices (cable or powerline crossings), information relating to use of facilities; and the display of safety information.

Maimai have generally been provided for as permitted activities because they are small, well camouflaged structures that have minimal environmental impact. Such structures are considered inappropriate in the context of Lake Dunstan which is a focus for recreational activity including boating. Requiring resource consent for these structures in other localities is considered overly restrictive and inefficient to administer.

B. Commercial Activities

Boats involved in commercial operations shall not exceed 6 metres in length provided that this does not apply to suction dredging operations permitted in terms of the Regional Plan : Water.

Commercial boating activity shall not take place on the Kawarau River.

Reason

Commercial operations involving larger vessels even though they may be operating within the Water Recreation Regulations, can generate adverse effects and can cause conflict of resource allocation because of their size and/or scale of operation. To overcome these problems, the resource consent process is seen as the most appropriate control.

C. Noise

The emission of noise from any permanent or fixed structure on the water surface or margin shall not exceed the noise levels specified in Rule 4.7.6E.

*Breach:
discretionary
activity see Rule
5.7.3(a)*

*Breach:
discretionary
activity see Rule
5.7.3(a)*

Reason

As structures on the water surface are sometimes located near built up areas or other areas occupied by people, it is considered reasonable to control noise emission from them. This rule ensures that noise emission from structures conforms with rules for the adjoining resource area, thereby ensuring effects on adjoining occupiers is kept to a minimum.

5.7.4C (cont'd)

Noise from craft, however, is not subject to this rule for the following reasons:

- (i) There is a common law right to navigate New Zealand waters, and*
- (ii) The Water Recreation Regulations 1979 control excessive noise from craft and restrict speed limits, and*
- (iii) The Resource Management Act imposes a duty to avoid unreasonable noise when carrying out activities in or on the water surface, by adopting the best practicable option to ensure noise does not exceed a reasonable level (see section 16 of the Act).*

Furthermore, the Resource Management Act contains a number of enforcement provisions that can be utilised to control objectionable or excessive noise such as enforcement orders (section 314); abatement notices (section 322) and excessive noise directions (section 327).

Noise from craft may be controlled by condition when resource consent applications are considered.

D. Other Standards

Standard 4.7.6K applies in the Water Surface and Margin Resource Area.

5.8 ENVIRONMENTAL RESULTS ANTICIPATED

- 5.8.1 Free and unrestricted passage of vessels on the water surface will continue.
- 5.8.2 Adverse effects of noise are avoided, remedied or mitigated.
- 5.8.3 A lack of obtrusive structures on or adjacent to the District's water bodies.
- 5.8.4 Minimal conflict between water surface activities, and between water surface activities and activities occurring within riparian margins.
- 5.8.5 The continued operation of existing hydro electric power stations.
- 5.8.6 Maintenance and enhancement of public access along the margins of lakes and rivers, where appropriate.
- 5.8.7 Safety of recreational water users.