

Good afternoon commissioners,

My name is Bryony Steven, I am a Graduate Planner in the Development Planning Unit at the Waimakariri District Council. I prepared the s42A report on the Activities on the surface of water chapter and I can confirm that I have read all the submissions, further submissions, submitter evidence and higher order policies. As the reporting planner I understand that my role in this hearing is to be of assistance to the Hearing Panel.

I confirm to the Panel that Variation 1 to the Proposed Plan does not affect the Activities on the surface of water chapter and no part of Variation 1 is addressed within the s42A report.

I would like to provide you with an overview of the s32 report for the chapter, the submissions received, the s42A report and my recommendations in that report. Then I will go through the questions from the hearing panel and my preliminary written responses. After which, I will be happy to take questions on the S42A report.

S32 statutory and policy context

I will start by taking you through the section 32 report for activities on the surface of water.

The section 32 Report establishes the statutory and policy context for the Activities on the surface of water chapter. There is no specific direction for activities on the surface of water and therefore multiple matters are considered relevant to the chapter.

The full list of the relevant national and regional direction is contained in section 3 of the section 32 report.

Of the RMA section 6, matters of national importance, clauses (a) through to (e) are relevant to the chapter. Section 7 clauses (a) through to (f) apply to the topic.

Other relevant policy statements and plans that the Proposed Plan must give effect to include the Regional Policy Statement chapter 7 *Fresh Water*, the Regional Coastal Environment Plan and the Waimakariri River Regional Plan.

Operative plan provisions

The operative district plan contains provisions that are relevant to activities on the surface of water within the Water chapter. The water chapter in the operative plan includes an objective, two policies and two rules. They include provisions specific to the Waimakariri Gorge, the Ashley / Rakahuri River, Pegasus Lake and Kaiapoi Lake.

As per the National Planning Standards 2019, the Proposed Plan has a dedicated chapter for activities on the surface of water and the provisions in the chapter apply district wide unlike the operative plan that applies to the locations specified in the objective, policies and rules.

The chapter manages surface water values and does not manage the bed of the water body. The bed of waterbodies are managed by the Regional Council.

Key resource management issues

In section 4 of the section 32 report, the key resource management issues are identified.

Key issue 1 relates to the provision for houseboats on the Kaiapoi river. There is the potential for houseboats to cause conflicts with existing activities and potentially compromise other values associated with the Kaiapoi river. It was also identified that there may be the expectation by house boat residents that the land adjacent to their houseboats is private land, which could adversely affect public access to, or alongside the Kaiapoi River.

House boats on the Kaiapoi River were signalled in the 'Kaiapoi Town Centre Plan for the Kaiapoi River'. House boats are provided for in the chapter in policy 2, and the potential issues house boats may cause, are managed through the restricted discretionary activity status in Rule 2.

The second key issue relates to the potential for damage to be caused to sensitive indigenous environments and habitats, and amenity values, from the use of watercraft. These sensitive waterbodies are identified in rule 1 and certain activities that have a functional need to occur on these water bodies are allowed, while others are identified as non-complying.

These waterbodies are Jockey Baker Creek, Te Kōhanga Wetlands, Tūtaepatu Lagoon and the Ashley / Rakahuri Saltwater Creek Estuary. If you refer to appendix F in the s42A report you can see the location of these waterbodies.

Proposed plan provisions

Appendix 2 in the Section 32 report outlines the activities on the surface of water provisions in the Proposed Plan. The chapter has 1 objective, two policies, two rules and 2 advice notes. The chapter provides for houseboats on the Kaiapoi River overlay, and provides for the use of watercraft across the District.

Submissions on the activities of the surface of water chapter

There were 20 submission points made on the chapter from ten original submitters. 16 of these submission points supported the provisions in the chapter as notified, and the remaining four submissions sought amendments.

The following are the key issues in contention in the chapter as a result of the submissions:

- The absence of Te Kōhaka o Tūhaitara Trust as a listed authority permitted to use watercraft in ASW-R1(1);
- A submission to include defence purposes as an activity permitted to use watercraft in ASW-R1(3); and
- The non-complying activity status for non-motorised watercraft on Jockey Baker Creek, Te Kōhanga Wetlands, Tūtaepatu Lagoon and Ashley / Rakahuri Saltwater Creek Estuary (Rakahuri Estuary).

The main issue in the chapter was in addressing the non-complying activity status for non-motorised watercraft in these waterbodies as was raised in the submissions by Canterbury Regional Council and forest and bird.

In addressing their submissions, I sought to understand the evidential basis for the rule. The four waterbodies were identified in the “Waimakariri coastal natural character study” as waterbodies of high, very high and outstanding natural character and are unique within the District.

However, I was unable to determine a definitive link between the high natural character values of these waterbodies and the stringency of the non-complying activity status for the use of watercraft.

The three waterbodies; Jockey Baker Creek, Te Kōhanga Wetlands, and Tūtaepatu Lagoon, are high and very high natural character waterbodies and are therefore subject to policy 13 (1)(b) of the New Zealand coastal policy statement where significant adverse effects are to be avoided.

In paragraph 110 of the s42a report, I have stated that the coastal natural character study identified what could constitute a significant adverse effect as arising *“from any major change to the current situation. Large scale land-use change e.g. clearance and land modification and land intensification e.g. change to the back dunes to pasture, would, in some areas have significant adverse effects.”*

As I stated in the report, I consider this demonstrates a high threshold for significant adverse effects that I was not convinced the use of non-motorised watercraft, such as a kayak, would achieve. In my view, there was insufficient evidence for the non-complying activity status for non-motorised watercraft in these waterbodies and I was unable to justify retaining the rule as notified.

As a result, in section 3.6.3 in the s42A report, I recommend an amendment to rule 1 to change the title from “use of watercraft” to “use of motorised watercraft”. This recommended change would mean that non-motorised watercraft are permitted on all waterbodies in the district and motorised watercraft are managed as a non-complying activity on the high natural character waterbodies.

Another issue that arose in addressing the submissions on Rule 1, was the location of the coastal marine area boundary. I refer you to Appendix D in the S42A report where you can see the CMA boundary in relation to the outstanding natural character overlay.

Rule 1 controls the use of watercraft within the Rakahuri Estuary which is almost completely located within the CMA boundary and is therefore under the jurisdiction of the Regional Council.

I have addressed this issue within paragraphs 95 and 101.

I recommended Rule 1 does not apply to the Estuary and I have recommended a new advice note to inform users of the plan that motorised watercraft are managed by the Regional Council in the Regional Coastal Environment Plan.

In Appendix E, you can see Jockey Baker Creek which is located close to the mouth of the Waimakariri River, and the CMA boundary extending well into the area.

In paragraphs 102 – 104, I have discussed the issue in relation to Jockey Baker Creek and I recommend the rule continue to apply to this area rather than providing a ‘carve out’ within the rule. As I have stated in paragraph 104, this approach recognises the unfixed nature of the CMA boundary, the small area of JBC located within the CMA, and it is an integrative solution to the jurisdictional issue.

In Appendix A I have set out my recommended changes to the chapter. I have recommended the following changes:

- Amend the title of Rule one to say “use of motorised watercraft”, this is a change from the notified rule which states “use of watercraft”.
- Delete the Ashley/ Rakahuri Saltwater Creek Estuary from rule 1.
- Add Te Kōhaka o Tūhaitara Trust to the list of agencies permitted to use motorised watercraft in Rule 1 clause 1.
- Add a new advice note to inform plan users that motorised watercraft are managed by the Regional Council in the Regional Coastal Environment Plan for the Canterbury Region.

Preliminary responses to questions from the Panel