



**CENTRAL  
HAWKE'S BAY**  
DISTRICT COUNCIL

**REPORT OF HEARING  
PANEL**

**Independent Hearing Commissioners:**

Robert Schofield (Chair)  
Loretta Lovell  
Roger Maaka  
Tim Aitken  
Kate Taylor  
Pip Burne

**TOPIC 1D**

**Open Space and Recreation/ Public Access/ Activities on the  
Surface of Water**

**REPORT DATED:**

**4 May 2023**

**DATE OF HEARING:**

**14 to 15 March 2022**

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## List of Submitters and Further Submitters addressed in this Report

Submitter Name	Submitter Number
Department of Conservation (DOC)	S64
Federated Farmers of New Zealand (Federated Farmers)	S121
Hawke's Bay Regional Council (HBRC)	S11
Horticulture New Zealand (Hort NZ)	S81
Jet Boating New Zealand	S48
Ngā hapū me ngā marae o Tamatea (NHMT)	S125

Further submitter Name	Further submitter number
Federated Farmers	FS25
Royal Forest and Bird Protection Society of New Zealand Incorporated (Forest & Bird)	FS9

# PART A – PRELIMINARY MATTERS

## 1 Introduction

### 1.1 Scope of this report

- 1.1.1 This document details the evaluation and recommendations of the Proposed CHBD Plan Hearings Panel on the submissions and evidence relating to Open Space & Recreation, Public Access, and Activities on the Surface of Water considered at the Natural and Coastal Environment topic hearing, held on 14 March 2022, and reconvened on 15 March 2022, both held at the CHBDC Chambers, Waipawa.
- 1.1.2 The recommendations in this report, together with all of the other recommendations of the Hearing Panel ("the Panel") on submissions on the PDP, will all go before the full Council following the end of the hearings, who will make the formal decisions.
- 1.1.3 Our report focuses on the key issues in contention. Where there is no contention, such as submitter support for certain provisions, or minor matters where proposed changes are recommended in response to submissions, we have adopted the s42A report's recommendations and the underlying evaluation behind such changes.

### 1.2 Statutory Considerations

- 1.2.1 The Panel's Report on Preliminary Matters and Statutory Requirements sets out the statutory framework and requirements for preparing a District Plan as well as case law guidance for our consideration and recommendations. This framework is not repeated in this report. This report should be read in conjunction with the Report on Preliminary Matters and Statutory Requirements.
- 1.2.2 This report will refer to the s42A report 'Officer's Report: Open Space and Recreation / Public Access / Activities on the Surface of Water', prepared by Stella Morgan.
- 1.2.3 Open Space and recreation, public access, and activities on the surface of water is addressed in the 'Remaining District Wide Chapters and Relocated Building Provisions Section 32 Topic Report'.
- 1.2.4 As submissions on particular aspects of the PDP are considered through hearing reports, officers are required to consider any alternative provisions put forward in the context of what s32 requires, and when changes are recommended, a further assessment under s32AA will be provided if the change is a material departure from what notified. That same obligation to make a further assessment under s32AA also applies to the Panel if it decides to recommend changes as a result of submissions which materially depart from the notified version.

- 1.2.5 Through Minute #5, the Panel urged submitters to provide the hearings with a further assessment under s32AA for any changes to the PDP they were seeking. Where these have been provided, they are noted in the summary of evidence to the hearing sections of this report.
- 1.2.6 Where the Panel has made amendments to the PDP that are consistent with the recommendations contained within the reporting planners' s42A and / or rights-of-reply (and where there are relevant joint witness statements) we have adopted the s32AA analysis contained within those reports (unless expressly stated otherwise). Those reports are part of the public record and are available on the CHBDC website.
- 1.2.7 Where the Panel has made amendments to the PDP that are not contained within the reporting planner's recommendations, we have undertaken the required s32AA analysis and have incorporated it into the body of our report, with the required assessment forming part of our evaluation. We are satisfied that the required substantive assessment has been undertaken.

### **1.3 Submissions**

- 1.3.1 Submission points were received as follows:
- Open Space and Recreation – 2 submission points both in support and no further submissions points.
  - Public Access – 15 submission points and 12 further submission points. Ten of these submission points are in support of the PDP provisions and five are seeking amendments.
  - Activities on the Surface of Water – 13 submission points and no further submission points. 11 of these submission points are in support, 1 seeks an amendment, and 1 is in opposition.

- 1.3.2 Key matters in opposition for each of the sections are summarised below:

#### Open Space and Recreation

- 1.3.3 No matters in opposition submitted on.

#### Public Access

- 1.3.4 The need to address access by mana whenua to wāhi tapu on private land or to cross private land to sites of significance.
- 1.3.5 Clarification of matters related to esplanade reserves (Policies PA-P1 and PA-P2) and a request for a new policy providing for compensation for esplanade reserves.
- 1.3.6 Provision for private land in Policy PA-P4 and a new policy to advocate and educate about public access.

Activities on the Surface of Water

- 1.3.7 A request to amend provisions to allow for jetboating outside of the fishing season, and to provide performance standards for commercial jet boating.

## 1.4 Procedural Matters

- 1.4.1 There were no pre-hearing meetings or meetings undertaken in accordance with cl8AA of Schedule 1, or undertaken on the submissions relating to the open space and recreation, public access, and activities on the surface of water provisions prior to the finalization of the s42A report. No further consultation or meetings with any parties regarding open space and recreation, public access, and activities on the surface of water.

- 1.4.2 No procedural matters were raised.

- 1.4.3 No matters of trade competition were raised.

## 1.5 Hearing

- 1.5.1 The hearings were held on 14 March 2022, and reconvened on 15 March 2022, at the CHBDC Chambers, Waipawa. The hearing was adjourned at the end of 15 March 2022.

- 1.5.2 Submitters who appeared at the hearing, in relation to the open space and recreation, public access, and activities on the surface of water topics and the key issues under which their evidence is discussed, are shown below in Table 1. All evidence can be found on the PDP Hearing Schedule webpage under the relevant Hearing Stream 1, [here](#).

**Table 1. Submitters who appeared at Hearing Stream 1: Natural and Coastal Environment in relation to open space and recreation, public access, and activities on the surface of water**

Submitter (Submitter Number)	Represented by/ experts called	Nature of evidence	Key Issue under which evidence is discussed
Federated Farmers (S121, FS25)	Rhea Dasent (Senior Policy Advisor)	Attended Hearing Submitter Evidence Submitter Presentation Notes	Key Issue 2
HBRC (S11)	Gavin Ide (Principal Advisor Strategic Planning)	Attended Hearing Submitter Statement Supplementary Hearing Statement	Key Issues 1, 2, and 3

Submitter (Submitter Number)	Represented by/ experts called	Nature of evidence	Key Issue under which evidence is discussed
Jet Boating New Zealand (S48)	Brian Eccles	Attended Hearing	Key Issue 3

1.5.3 Appearances for the CHBDC were:

- Ms. Morgan, reporting planner

1.5.4 Evidence provided by Ms. Morgan included:

- Officer's Report: Open Space and Recreation / Public Access / Activities on the Surface of Water; and
- Opening statement (tabled and verbal).

1.5.5 The sixth memorandum and direction of the hearings panel following hearing 1 was issued on 18 March 2022. There were no further directions relating to this topic other than for the reporting officer to provide a written right-of-reply.

1.5.6 Following the adjournment of the hearing on 15 March 2022, a written right-of-reply from the Council's reporting planner was received and circulated on Friday 8 April.

1.5.7 The eighteenth memorandum and direction of the Hearings Panel following the final hearing for Hearing Stream 4 on Tangata Whenua matters was issued on 21 November 2022. It directed the reporting planner (Ms. Morgan) to provide a written right of reply with respect to providing a response to all submission points regarding tangata whenua matters.

1.5.8 The written right-of-reply from Council's reporting planner was received and circulated on 9 December 2022.

## 1.6 Structure of this report

1.6.1 Given the number, nature and extent of the submissions and further submissions received, we have structured this decision according to the key issues identified in the s42A report, rather than present a submission point by submission point evaluation. There are 3 key issues addressed in this report.

- Key Issue 1: Open Space and Recreation;
- Key Issue 2: Public Access; and
- Key Issue 3: Activities on the Surface of Water.



- 1.6.2 We have structured our evaluation and decision on a hierarchical basis, firstly reviewing the overarching issues relating to the topic and those submissions that made general points about the topic, including those seeking a binary relief such as complete withdrawal of relevant plan provisions. This includes definitions.
- 1.6.3 We then turn our evaluation to the higher-level provisions of the District Plan relating to the topic: the objectives and policies and associated matters.
- 1.6.4 We then turn to considering the associated rules and standards, and, if relevant, methods and anticipated environmental results
- 1.6.5 The Panel’s recommendations for each submission point are listed in the table in Appendix B.

## PART B – EVALUATION

### 2 Overview

- 2.1.1 The Open Space and Recreation section of the PDP outlines the values of public open space and recreation to Central Hawke's Bay and the PDP approach to the provision of open spaces and recreational activities while being mindful of potential impacts of such activities on neighbouring landowners. Many of Council's open spaces and activities /facilities are designated in the PDP and also shown on the planning maps. Community and recreation facilities are also identified in SCHED 8 – Schedule of Identified Community Facilities and shown on the Planning Maps (for information purposes only). Recreational activities fall within the definition of 'community facilities' and are generally permitted across subject to standards.
- 2.1.2 The Public Access section of PDP responds to the section 6(d) matter of national importance that requires Councils to recognise and provide for the maintenance and enhancement of public access to and along the coastal marine area, lakes and rivers. The PDP Planning Maps identify the district's important waterbodies and, in this chapter and associated subdivision provisions, seeks to prioritise the creation of esplanade areas to provide public access to and along these areas.
- 2.1.3 The Activities on the Surface of Water section of the Proposed District Plan addresses the Council's RMA responsibilities (s31(e)) to manage the control of any actual or potential effects of activities in relation to the surface of water in rivers and lakes.
- 2.1.4 These Open Space and Recreation, Public Access, and Activities on the Surface of Water provisions update and amend provisions contained within the district-wide provisions of the ODP.

### 3 Key Issue 1 – Open Space and Recreation

#### 3.1 Proposed Plan Provisions

- 3.1.1 This key issue addresses the provisions of the Open Space and Recreation chapter of the PDP.

#### 3.2 Submissions

- 3.2.1 In summary, 2 submissions and no further submissions were received to this section of the PDP.
- 3.2.2 Both submissions are in support of the OSR – Open Space and Recreation provisions, and no specific matters have been identified.

#### 3.3 Reporting Planners' Recommendations

- 3.3.1 The reporting planner accepted HBRC's submission (S11.021) that sought no changes to the Open Space and Recreation chapter.
- 3.3.2 The reporting planner accepted Hort NZ's submission (S81.077) that sought to retain Policy OSR-P2.

#### 3.4 Evidence to the hearing

- 3.4.1 HBRC submitted a written statement to the Hearings Panel. It agreed with the section 42A recommendation.

#### 3.5 Post Hearing Information

- 3.5.1 The sixth memorandum and direction of the Hearings Panel following hearing 1 was issued on 18 March 2022. There were no further directions relating to this topic other than for the reporting officer to provide a written right-of-reply.
- 3.5.2 Following the adjournment of the hearing on 15 March 2022, a written right-of-reply from the Council's reporting planner was received and circulated on Friday 8 April 2022. It did not address this key issue.

#### 3.6 Evaluation and Findings

- 3.6.1 The Panel agrees with the reporting planner's recommendation to accept the submissions of HBRC (S11.021) and Hort NZ's (S81.077).

## 4 Key Issue 2 – Public Access

### 4.1 Proposed Plan Provisions

4.1.1 This key issue addresses the provisions of the Public Access chapter of the PDP.

### 4.2 Submissions

4.2.1 In summary, 15 submissions and 11 further submissions were received to the Public Access section of the PDP. 10 of these submissions are in support of the provisions as proposed and the remaining five seek amendments.

4.2.2 Matters raised by submitters:

- The need to address access issues for mana whenua to wāhi tapu on private land, including providing for access across private land to sites of particular significance.
- The need for greater flexibility with respect to the provision of esplanade reserves (PA-P1 and PA-P2) and a request for a new policy regarding compensation when esplanade reserves are provided.
- A request to include reference to private land in Policy PA-P4.

### 4.3 Reporting Planners' Recommendations

#### Tangata Whenua & Public Access

4.3.1 The reporting planner recommended accepting NHMT's submissions (S125.065, and S125.066) that sought to retain Issue PA-I1 and Objective PA-O1 respectively.

4.3.2 The reporting planner recommended rejecting NHMT's submission (S125.067) that sought redrafting of the policies in this section collaboratively with the Tangata whenua of the District to more fully and accurately reflect the history, relationships and whakapapa of Māori in the rohe. Ms. Morgan stated that in the absence of sufficient information to amend this section as sought, she recommended this submission be rejected. She also explained that providing for public access in this manner in the chapter does, as this submission stated, partly met the aspirations of mana whenua to provide for the practice of their traditional rituals and ceremonies, including the practice of kaitiakitanga and restoration of particular waterbodies. However, it did not address the issue of access across private land to cultural sites. More information was required from the submitter and hapū collectively to understand this issue and the best methods for responding to this, and whether the PDP (and this chapter in particular) was an available or appropriate method to address this concern.

Matters related to Esplanade Reserves (Policy PA-P1 and PA-P2 and request for new policy)

- 4.3.3 The reporting planner recommended accepting in part DOC's submission (S64.080) that sought to retain Policy PA-P1.
- 4.3.4 The reporting planner recommended accepting in part Federated Farmers submission (S121.049) that sought to amend Policy PA-P1 to allow for a waiver of esplanade reserves, esplanade strips or access strips where appropriate. Ms. Morgan stated that the flexibility that they were seeking could be achieved under the existing rule framework, via the assessment matters. It allowed for discretion when considering whether to take esplanade areas on all relevant subdivisions, rather than a specific requirement as indicated by policy PA-P1, and provided for consideration of a waiver in circumstances where the RMA required such provision (i.e., on all sites under 4ha).
- 4.3.5 However, the reporting planner considered that the existing policy and rule framework was not clear in this respect, and in developing her recommendation, she examined the purpose of these provisions. Ms. Morgan concluded that the purpose of these provisions was to prioritise and encourage the taking of esplanade reserves on all sites being created adjacent to identified priority waterbodies (under or over 4ha), and to provide for waivers of any requirement to create sites in appropriate circumstances (as set out in the assessment matters).
- 4.3.6 She recommended the following amendments to Policies PA-P1 and PA-P2 to more clearly reflect this:

**PA-P1 To ~~require~~ prioritise the establishment of esplanade reserves, esplanade strips or access strips when subdividing land adjacent to priority water bodies shown on the Planning Maps.**

**PA-P2 To provide for the waiving of requirements for esplanade areas (esplanade reserves, esplanade strips or access strips) ~~on non-priority water bodies~~, where appropriate.**

*Refer SUB-AM9 for guidance as to where a waiver might be considered appropriate.*

- 4.3.7 A consequential amendment to the Assessment Matter SUB-AM9 in the subdivision provisions is also recommended to further clarify this approach:

**SUB-AM9 Esplanade Reserves, Esplanade Strips and Access Strips**

1. The purposes for the creation of esplanade reserves and/or esplanade strips set out in section 229 of the RMA.

**2a. Whether an esplanade reserve or esplanade strip of up to 20 metres wide is needed to be created or vested when a lot is created along any priority water body shown on the Planning Maps (including consideration of the adverse effects of not providing the full potential width and the benefits of providing the full width).**

**2b. Whether an esplanade reserve or esplanade strip of up to 20 metres wide is needed to be created or vested when a lot is created along the bank of any other river or lake waterbody identified on District Planning Maps, ~~or along the coast~~ (including consideration of the adverse effects of not providing the full potential width and the benefits of providing the full width).**

*Note: This does not apply to subdivisions that are required for a boundary adjustment.*

3. Whether any waiver or reduction in size or width of an esplanade reserve or esplanade strip will adversely affect:

- a. The ecological characteristics of the land that contribute to the maintenance and enhancement of the natural functioning of the adjacent river, lake or sea;
- b. The water quality of the adjoining river, lake or sea;
- c. The land and water-based habitats present on or adjoining the subject land area;
- d. The public's ability to gain access to and along the lake, river or sea;
- e. The recreational use of the land and adjacent water;
- f. The natural character and visual amenity of the river, lake, or coast; and
- g. The ability of the Central Hawke's Bay District Council and/or the Hawke's Bay Regional Council to gain access to and along the margins of the river, lake, or sea for maintenance purposes.
- h. Whether any waiver or reduction in size or width of the esplanade reserve or esplanade strip will:
  - i. Ensure the security of private property or the safety of people;
  - j. Maintain or enhance the protection of wāhi taonga, including wāhi tapu and mahinga kai as well as the provision of access to areas of importance to Māori;
- k. Whether the land is within a natural hazard area or in an area where there is an identified risk from one or more natural hazards.
- l. Whether there is another protection mechanism, such as QEII Trust Covenant, that will be more appropriate than an esplanade reserve or esplanade strip.'

4.3.8 The reporting planner recommended rejecting Federated Farmers submission (S121.051) that sought a new policy providing for compensation to be payable to esplanade reserves and strips. Ms. Morgan stated that Compensation was a matter that must be addressed at the time of subdivision as set out in sections 237E and 237F of the RMA. For this reason, she did not support the inclusion of a new policy as sought.

4.3.9 The reporting planner recommended accepting in part Federated Farmers submission (S121.050) that sought to retain Policy PA-P2. As aforementioned this policy was recommended to be amended in response to a Federated Farmers submission (S121.049).

#### Policy PA-P3

4.3.10 The reporting planner recommended accepting the submissions of DOC (S64.081) and Federated Farmers (S121.052) that sought to retain Policy PA-P3 as proposed.

#### Policy PA-P4

4.3.11 The reporting planner recommended accepting DOC's submission (S64.082) that sought to retain Policy PA-P4.

4.3.12 The reporting planner recommended rejecting Federated Farmers submission (S121.053) that sought to amend Policy PA-P4 to include 'private property'. Ms. Morgan acknowledged Federated Farmers concerns regarding public nuisance in relation to public access across farmland, however she stated that these were not construction matters as sought to be addressed by this policy. Where public access was constructed over private land, there were other legal mechanisms for dealing with any construction effects including land owner agreements; the ongoing management of such public access was not something that was able to be addressed by the RMA.

### New Policies

- 4.3.13 The reporting planner recommended accepting in part Federated Farmers submission (S121.054) that sought an additional policy to provide education on public access and that access over private land is by permission. Ms. Morgan has stated that given this section was about maintaining and enhancing public access, specific additional policy to educate and inform about the location of public access and private property rights would not in her view assist in achieving the objective of this section. However, a reference could be included as part of Council's advocacy role outlined in PA-M3 Advocacy and Liaison, as suggested below:

#### **PA-M3 Advocacy and Liaison**

**Directly negotiating with landowners, as appropriate, to encourage them to voluntarily establish public access to and along the coast or priority waterbodies; informing the public as to the location of public access to rivers, lakes and coast and educating the public that access over private land is only by the permission of the landowner.**

## **4.4 Evidence to the hearing**

- 4.4.1 HBRC provided a written statement to the Hearings Panel. It agreed with the section 42A recommendations.
- 4.4.2 Federated Farmers submitted written evidence to the Hearings Panel. It agreed with the reporting planner's recommended amendments to Policies PA-P1 and PA-P2 in response to submission S121.049.
- 4.4.3 Federated Farmers also agreed with the reporting planner's recommended amendments to Method PA-M3 in response to its submission S121.054.

## **4.5 Post Hearing Information**

- 4.5.1 The sixth memorandum and direction of the Hearings Panel following hearing 1 was issued on 18 March 2022. There were no further directions relating to this topic other than for the reporting officer to provide a written right-of-reply.
- 4.5.2 Following the adjournment of the hearing on 15 March 2022, a written right-of-reply from the Council's reporting planner was received and circulated on Friday 8 April. It did not address this key issue.
- 4.5.3 The eighteenth memorandum and direction of the Hearings Panel following the final hearing for Hearing Stream 4 on Tangata Whenua matters was issued on 21 November 2022. It directed the reporting planner (Ms. Morgan) to provide a written right of reply with respect to providing a response to all submission points regarding tangata whenua matters.
- 4.5.4 Ms Morgan made the following comments in her right of reply:

S125.067	Ngā 13mph me ngā marae o Tamatea (Nga hapu me nga marae o Tamatea)	PA – Policies	Redraft the policies in 'PA – Policies' to more fully and accurately reflect the history, relationships and whakapapa of Māori in the rohe. It needs to meet mana whenua aspirations to access key sites of significance and protect and provide for freshwater, coastal and cultural enhancement. Outside of these uses access should be managed to protect the cultural safety of freshwater and coastal waterbodies. The amended wording should be drafted collaboratively with the mana whenua of the District.	Reject <u>Accept in part</u>	No	Recommended amendment to Policy TW-P8 (refer Tangata Whenua S42A Topic Report Key Issue 9, S125.026 Ngā hapū me ngā marae o Tamatea) emphasises working with tangata whenua with respect to public access. As Council develops this relationship, better understanding of the history, relationships, and whakapapa of Māori in the rohe will inform development of the District Plan.  Amend recommendation from reject to accept in part in so far as the amendment to Policy TW-P8 partially addresses this submission.
FS25.73	Federated Farmers		Disallow	Accept		

## 4.6 Evaluation and Findings

### Tangata Whenua & Public Access

- 4.6.1 The Panel agrees with the reporting planner's recommendations to accept NHMT's submissions (S125.065, and S125.066) that sought to retain Issue PA-I1 and Objective PA-O1 respectively.
- 4.6.2 We agree with the reporting planner's recommendation to accept in part S125.067 (NHMT), and the associated amendment to Policy TW-P8 for the reasons outlined in the relevant report.

### Matters related to Esplanade Reserves (Policy PA-P1 and PA-P2 and request for new policy)

- 4.6.3 The Panel agrees with the reporting planner's recommendation to accept in part DOC's submission (S64.080) that sought to retain Policy PA-P1.
- 4.6.4 We agree with the reporting planner's recommendation to amend Policies PA-P1 and PA-P2, and Assessment Matter SUB-AM9 in response to Farmers submission (S121.049) for the reasons outlined above and in the corresponding section 42A report. The Panel also agrees to the changes to the wording of the amendment to assessment matter SUB-AM9 as presented in the right of reply dated 27 October 2022 following Hearing Stream 5. We also agree with the reasons given. Below is the amendment as the Panel have accepted and recommend:

#### **SUB-AM9 Esplanade Reserves, Esplanade Strips and Access Strips**

1. The purposes for the creation of esplanade reserves and/or esplanade strips set out in section 229 of the RMA.



2. Whether an esplanade reserve or esplanade strip of up to 20 metres wide is needed to be created or vested:

a. **when a lot is created along any priority waterbody shown on the District Planning Maps;**

b. when a lot is created along the bank of any **other waterbody** ~~river or lake~~ identified on **the** District Planning Maps ~~or along the coast~~;

{Including consideration of the adverse effects of not providing the full potential width and the benefits of providing the full width.}

*Note: This does not apply to subdivisions that are required for a boundary adjustment.*

- 4.6.5 The Panel agrees with the reporting planner's recommendation to reject Federated Farmers submission (S121.051) that sought a new policy providing for compensation to be payable to esplanade reserves and strips, for the reasons outlined above and in the corresponding section 42A report.

- 4.6.6 We agree with the reporting planner's recommendation to accept in part Federated Farmers submission (S121.050) that sought to retain Policy PA-P2. As aforementioned this policy was recommended to be amended in response to a Federated Farmers submission (S121.049).

#### Policy PA-P3

- 4.6.7 The Panel agrees with the reporting planner's recommendation to accept the submissions of DOC (S64.081) and Federated Farmers (S121.052) that sought to retain Policy PA-P3 as proposed.

#### Policy PA-P4

- 4.6.8 The Panel does not agree with the reporting planner's recommendation to accept DOC's submission (S64.082) to retain Policy PA-P4 as worded, and the related recommendation to reject Federated Farmers submission (S121.053) that sought to amend Policy PA-P4 to include 'private property'.

- 4.6.9 The Panel considers that the potential for damage to private property when providing private access is an appropriate matter to address as it could be an effect arising from the construction of access. Accordingly, we agree with Federated Farmers and therefore recommend the following amendment to Policy PA-P4:

'To ensure that where new access to the coast is to be provided, that it is practical and safe, and is constructed to avoid, remedy or mitigate damage to:

1. dunes, estuaries and other sensitive natural areas or habitats;
2. geological systems or processes;
3. ecological systems or to indigenous flora and fauna;
4. historical heritage; ~~or~~
5. sites and areas of significance to tangata whenua; **or**
6. **private property.**

**New Policies**

- 4.6.10 The Panel agrees with the reporting planner's recommendation to amend Method PA-M3 in response to Federated Farmers submission (S121.054) insofar that construction should not damage private property but the ongoing public nuisance cannot be addressed through this mechanism.

## 5 Key Issue 3 – Activities on the Surface of Water

### 5.1 Proposed Plan Provisions

- 5.1.1 This key issue addresses the provisions of the Activities on the Surface of Water chapter of the PDP.

### 5.2 Submissions

- 5.2.1 In summary, 13 submissions and no further submissions were received to the Activities on the Surface of Water (ASW) section of the Plan.
- 5.2.2 Jet Boating New Zealand (S48) has sought amendments to both rules as outlined below and a minor correction to Anticipated Environmental Results AER2. All other parts of this chapter were otherwise supported.

### 5.3 Reporting Planners' Recommendations

- 5.3.1 The reporting planner recommended accepting the submissions of HBRC (S11.027) and Jet Boating New Zealand (S48.001, S48.002, S48.003, S48.004, S48.007, S48.008, S48.009, S48.010 and S48.012) which all sought the retention of the provisions submitted on.
- 5.3.2 The reporting planner recommended rejecting Jet Boating New Zealand's submission (S48.005) that sought amendment to Rule ASW-R1 to include a permitted activity for the use of motorised craft. Ms. Morgan noted that ASW-P1 specifically referred to the effects of motorized craft on 'trout habitat and the habitat of indigenous fauna' and thus the associated rule ASW-R1 was not limited to effects on fish species only. It would therefore, in her opinion, be inappropriate to amend the rules as proposed by Jet Boating New Zealand as it would fail to protect the habitat of trout and indigenous fauna as proposed by these provisions, including Rules ASW-R1.
- 5.3.3 The reporting planner recommended rejecting Jet Boating New Zealand's submission (S48.006) that sought amendment to Rule ASW-R2 to provide for non-commercial activities. Ms Morgan stated that Jet Boating New Zealand had not offered any specific reason supporting their request nor provided any guidance on appropriate standards. In the absence of any specific reasoning or alternatives it would not be appropriate to change rule ASW-R2 as requested.
- 5.3.4 The reporting planner accepted Jet Boating New Zealand's submission (S48.011) that sought to correct a typo in Anticipated Environmental Result ASW-AER2, to be amended as follows:

**AWR**ASW-AER2'

## 5.4 Evidence to the hearing

- 5.4.1 HBRC submitted a written statement to the Hearings Panel. They agreed with the section 42a recommendations.
- 5.4.2 Jet Boating New Zealand submitted a written statement to the Hearings Panel. It stated that it was surprised that the planner's recommendation was a rollover of the Operative Plan provisions. It was suggested that the planner's recommendation was possibly about taking the "easy option".
- 5.4.3 Its submission sought the exclusion of commercial surface of water activities. It considered this to be responsible because such activities have a higher frequency and thus a higher impact than the occasional recreational use.
- 5.4.4 It was prepared to amend the submission to simplify the decision required, as follows:
- 5.4.5 Withdraw the proposed Tukituki changes (above the Waipawa confluence) in favour of just the Waipawa – their preferred resource;
- 5.4.6 Add frequency constraints for the Waipawa section; limit to 3 JBNZ organised events per year, but with no "spawning" restrictions as proposed; and
- 5.4.7 Delete the commercial use standard.
- 5.4.8 It claimed that these amendments would give the Harbourmaster better clarity, limit conflict with anglers, limit effects on flora and fauna to less than minor and make the commercial exclusion irrelevant.
- 5.4.9 Brian Eccles, represented Jet Boating New Zealand and appeared before the Hearings Panel at the hearings. He stated that no studies had been completed on the effects on boat travelling in shallow water to Trout. A study was conducted on Salmon but was inconclusive as the study was unable to be completed. To be cautious, he did support exclusion in those high priority areas. He stated that spawning was generally of low quality in the lower reaches of rivers.
- 5.4.10 Gerry Kessels, Council's Ecologist, stated during his presentation to the Panel at the hearings that jet boating could have effects on nesting birds, flora and fauna.
- 5.4.11 Brian Eccles clarified that the amendment sought above in the written statement limiting use to three Jet Boating Events per year would therefore mean there was no commercial activity on the river. He didn't think the flow would be adequate for commercial activities regardless and that it would prevent other non-commercial providers.
- 5.4.12 He was not sure if other Councils eliminated commercial activities.

## 5.5 Post Hearing Information

- 5.5.1 Brian Eccles provided an example of provisions for the Activities on the Surface of Water from the Timaru District Plan. He stated that like many plans the definition of Commercial in that plan is not defined. He suggested that for resource management purposes it would be the frequency and intensity that were a concern, and that any commercial activity is likely to have both. Given this Mr Eccles was of the view that it therefore made sense to wrap up all commercial activity into the same requirement.
- 5.5.2 The sixth memorandum and direction of the Hearings Panel following Hearing 1 was issued on 18 March 2022. There were no further directions relating to this topic other than for the reporting officer to provide a written right-of-reply.
- 5.5.3 Following the adjournment of the hearing on 15 March 2022, a written right-of-reply from the Council's reporting planner was received and circulated on Friday 8 April 2022. It did address this key issue.
- 5.5.4 Council's Ecologist Mr Gerry Kessels advised that jetboats can have effects on river ecology at particular times of the year and that if such events were to occur, restricting them to March to September (inclusive) annually, to avoid the banded dotterel breeding season (which is also a similar period for other breeding indigenous fauna), would be appropriate.
- 5.5.5 Ms Morgan considered a 'controlled activity' rule could be appropriate, while setting out certain conditions and matters for control. She therefore drafted the following amendment for the Panel to consider:

ASW-R1 Use of motorised craft on the surface of rivers and lakes			
On Horseshoe Lake or Lake Whatuma	<b>1. Activity Status: PER</b>  <b>Where the following conditions are met:</b> <ul style="list-style-type: none"> <li>a. Limited to engines that are less than 5 horsepower.</li> </ul> <i>Note: This does not apply to the use of small motorized, remotely-controlled craft, operated by suitably qualified persons, for river monitoring purposes.</i>	2. Activity status where compliance not achieved: DIS	
Any River Upstream of the Confluence of the Tukituki and Waipawa Rivers	<b>3. Activity Status: CON</b>  <b>Where the following conditions are met:</b> <ul style="list-style-type: none"> <li>a. <u>Limited to</u> <ul style="list-style-type: none"> <li>i. <u>locations on the Waipawa River upstream of the confluence with the Tukituki River, and below the bridge on State Highway 50</u></li> </ul> </li> </ul>	4. Activity status where compliance not achieved: DIS	

	ii. <u>non-commercialised water recreation activities</u> iii. <u>3 temporary events per year of no more than two consecutive days per event</u> iv. <u>timing of event – March to September (inclusive)</u>  <i>Note: This does not apply to the use of small motorized, remotely-controlled craft, operated by suitably qualified persons, for river monitoring purposes.</i>	
	<b>35. Activity Status: DIS</b>  <b>Where the following conditions are met: N/A</b> a. <u>Limited to:</u> i. <u>All other locations on the Waipawa River upstream of the confluence with the Tukituki River</u>  <i>Note: This does not apply to the use of small motorized, remotely-controlled craft, operated by suitably qualified persons, for river monitoring purposes.</i>	<b>46. Activity status where compliance not achieved: N/A</b>
<b>All Other Rivers and Lakes</b>	<b>57. Activity Status: PER</b>  <b>Where the following conditions are met: N/A</b>	<b>68. Activity status where compliance not achieved: N/A</b>
<b>ASW-R2 All other activities on the surface of rivers and lakes not otherwise provided for</b>		
<b>All Rivers and Lakes</b>	<b>1. Activity Status: PER</b>  <b>Where the following conditions are met: N/A</b>	<b>2. Activity status where compliance not achieved: N/A</b>

## 5.6 Evaluation and Findings

- 5.6.1 The Panel agrees with the reporting planner's recommendation to accept the submissions of HBRC (S11.027) and Jet Boating New Zealand (S48.001, S48.002, S48.003, S48.004, S48.007, S48.008, S48.009, S48.010 and S48.012) which all sought the retention of the provisions submitted on.
- 5.6.2 We agree with the reporting planner's original recommendation in the corresponding section 42A report to reject Jet Boating New Zealand's submission (S48.005) that sought amendment to Rule ASW-R1 to include a permitted activity for the use of motorised craft. No evidence was presented to the Panel by Jet Boating New Zealand to support their suggestion that there would be no effect upon flora and fauna by enabling jet boating on the specified rivers. Rather, Mr Kessels expressed some concern that effects were possible. Given this, we therefore recommend that Rule ASW-R1 be retained as notified.

- 5.6.3 The Panel agrees with the reporting planner's recommendation to reject Jet Boating New Zealand's submission (S48.006) that sought amendment to Rule ASW-R2 to provide for non-commercial activities.
- 5.6.4 We agree with the reporting planner's recommendation to accept Jet Boating New Zealand's submission (S48.011) that sought to correct a typo in Anticipated Environmental Result ASW-AER2.

## PART C – SUMMARY OF RECOMMENDATIONS

### 6 Summary of recommendations

- 6.1.1 A summary table of recommended decisions against each relevant submission point is included as Appendix B.
- 6.1.2 A tracked changes version of recommended amendments is included as Appendix A.

### 7 Consequential amendments and minor errors

- 7.1.1 Schedule 1, cl16(2), allows minor and inconsequential amendments to be made to the Plan.

### 8 Consequential amendments

- 8.1.1 No consequential amendments have been identified in relation to this topic. It is noted that the reporting planner recommended a consequential amendment to assessment matter SUB-AM9 in response to the amendments recommended for policies PA-P1 and PA-P2 (refer to paragraph 4.3.7). We agree with this consequential amendment.
- 8.1.2 The reporting planner also recommended a consequential amendment to Policy TW-P8 in response to NHMT S125.067 (paragraph 4.6.2, Key Issue 2). We agree with the amendment.

### 9 Minor errors

- 9.1.1 No minor errors have been identified in relation to this topic.



## **Appendix A – Chapters OSR – Open Space and Recreation, PA – Public Access, and ASW – Activities on the Surface of Water as Amended**

## OSR – Open Space and Recreation

### Introduction

Access to open space and the wide range of recreation opportunities it offers provides significant benefits to community health and wellbeing and contributes to thriving, healthy and liveable communities. The Central Hawke's Bay environment has abundant opportunities across a wide range of settings, including the bush-clad ranges of the Ruahine forest, the rivers, lakes and their margins, open space reserves, and the extensive coastline including Te Angiangi Marine Reserve. Most of these spaces are administered and managed by the Department of Conservation, the Hawke's Bay Regional Council, or the District Council.

The Council provides many recreation facilities (such as swimming pools, sports fields and playgrounds etc) that are valued and utilised by the community and there are also private landowners and organisations who contribute to public recreation opportunities, such as golf-clubs, Backpaddock Lake and Ranui Farm Park (mountain biking), and the Rotary Rivers Pathway Trust (trails).

Council recognises the significant benefits and values of accessible recreation opportunities and seeks to enable and encourage these opportunities in a sustainable way. Recreational activities and the development of facilities can have adverse effects on the amenity of the open space areas as well as their adjoining environments. These effects can include:

- noisy activities, night lighting or late hours of operation which can cause a nuisance for adjoining residential areas;
- large buildings such as clubrooms which can cause shading on neighbouring areas and be visually unappealing;
- lack of car-parking space which can cause problems with on-street parking and congestion in adjoining streets; and
- commercial or club concessions that can exclude public users from areas of reserves and create adverse effects relating to car-parking, litter and toilet facilities.

Potential adverse effects can also occur as a result of access to sensitive environments (landscape/cultural/ecological environments). Such effects can include, for example, earthworks in Outstanding Natural Landscapes, removal of vegetation in Significant Natural Areas, or earthworks or inappropriate access to wāhi tapu, wāhi taonga or sites of significance.

Many Council-owned open spaces and activities / facilities are designated in the District Plan and shown on the Planning Maps. This means that works within these spaces take place according to the purpose they have been designated for, regardless of the underlying zone provisions. Community and recreation facilities are also identified in SCHED8 – Schedule of Identified Community Facilities of this Plan and shown on the Planning Maps (for information purposes only).

Recreational activities (as community facilities) are generally permitted activities within the Zones and include a wide range of activities and facilities such as walkways, cycleways and trails (where located outside of road reserves), playgrounds and skate parks, fields and courts changing rooms, club rooms etc.

## Issues

**OSR-I1 Adequate provision for accessible recreational opportunities in appropriate locations.**

### Explanation

Accessible open spaces and recreation activities (as part of 'community facilities') that are appropriately located, should be available to satisfy the needs of the District's population. Regardless of ownership, Council seeks to encourage the provision of accessible open spaces and recreation facilities that will benefit the community in a way that is mindful of potential impacts on neighbouring landowners.

## Objectives

**OSR-O1 Open space and recreational opportunities that are accessible and appropriately located to meet the needs of residents and visitors, while avoiding, remedying or mitigating any adverse effects.**

## Policies

**OSR-P1 To facilitate, provide, and maintain a wide variety of open spaces and recreation opportunities in locations that are accessible to users.**

**OSR-P2 To ensure that buildings and development associated with recreational activities are established in a way that avoids or mitigates adverse effects, including reverse sensitivity effects, on neighbouring properties.**

## Methods

Methods for implementing the policies:

**OSR-M1 Designation**

Designating Council Reserves under the Plan to enable the continued recognition and function of these areas for recreational and open space purposes and identifying these in the list of Designations in the District Plan and on the Planning Maps. Note: not all Council open spaces and facilities are designated.

**OSR-M2 Reserve Management Plans**

Developing reserve management plans for the use, development, and management of Council-owned and administered reserves.

#### **OSR-M3 Information**

Identifying open spaces and recreational opportunities in APP1-SCHED8 – Schedule of Identified Community Facilities of the District Plan and on the Planning Maps, for information purposes.

#### **OSR-M4 Collaboration**

1. Continuing to work with other organisations (Department of Conservation, Hawke's Bay Regional Council) and private landowners to provide for a range of appropriate open space and recreational opportunities within the District.
2. Engaging and supporting hapū and marae, community organisations and private landowners to enable access to a wide range of accessible recreation opportunities across the District.

#### **OSR-M5 District Plan**

1. Providing for recreational activities (within the definition of 'community facilities') as a permitted activity, subject to complying with access, parking, noise, light standards etc.
2. Limiting buildings for community facilities to 100m<sup>2</sup> of gross floor area in all zones except the **Commercial Town Centre Zone** and General Industrial Zone (which have no gross floor area limit), so that the potential adverse effects of large-scale buildings can be appropriately avoided, remedied, or mitigated.
3. Standards and related assessment matters for community facilities requiring resource consent addressing potential adverse effects on neighbours and the community.
4. Assessment matters for community facilities requiring resource consent within sensitive environments such as Outstanding Natural Landscapes and Features, Significant Natural Areas, wāhi tapu, wāhi taonga or sites of significance.
5. Rules and performance standards relating to earthworks.

**Commented [A1]:** Kāinga Ora (S129.241) - Urban Environment Report 2A - key issue 8

### **Principal Reasons**

The principal reasons for adopting the policies and methods:

The District has abundant open space and recreation areas including large domains, picnic areas and active sports areas. These policies acknowledge that open spaces and the recreation opportunities provided are important to the health and wellbeing of the community and visitors to the community. While recreational activities are permitted across all zones, buildings for recreational use are generally limited in gross floor area to ensure that any adverse effects of large-scale buildings for recreational activities can be assessed through a resource consent process.

Many Council-owned public reserves are designated, and most community facilities are also scheduled in the District Plan for information purposes.

**Anticipated Environmental Results**

The environmental results anticipated from the policies and methods:

- OSR-AER1**      **Provision of a wide range of recreational opportunities in recognition of the diversity of community recreational needs.**
- OSR-AER2**      **Open spaces and recreational facilities that are convenient and accessible to users.**
- OSR-AER3**      **Recreational activities undertaken in a manner which do not adversely affect the general amenity of the surrounding environment.**

## PA – Public Access

### Introduction

Central Hawke's Bay has an extensive coastal margin and numerous rivers, streams and lakes that contribute to the District's identity and sense of connection to the environment and are highly valued by the community. Maintaining and enhancing public access to and along the coastal marine area and the margins of these waterbodies is a matter of national importance (section 6(d)).

The margins of the District's waterbodies are valued for many reasons including their natural character and contribution to water quality, their role as indigenous habitats for flora and fauna, amenity and public access reasons, and their importance to tangata whenua. While many of the ecological values of the District's significant riparian margins are recognised as Significant Natural Area's in ECO-SCHED5 and shown on the planning maps, additional protection in some cases is also warranted to maintain and enhance public access values.

The District Plan includes provisions for taking esplanade reserves, esplanade strips, or access strips on subdivision of land (RMA sections 229 – 237H) – with priority being placed on providing access to the Waipawa, Tukituki and Porangahau rivers, and Lake Whatuma providing an important mechanism to enable public access to be maintained and enhanced.

Public access to the coast is largely limited to where rural roads end at the coast. These roads accessing the coast largely coincide with the presence of beach settlements and coastal developments. There are multiple points of public access at these locations, generally associated with public open space areas and recreation reserves.

### Issues

#### PA-I1 Limited Public Access to Lakes, Rivers, and the Coast

**Lack of practical and safe public access to and along the coast can restrict cultural practices and recreational opportunities within the coastal environment. Conversely, provision of public access in inappropriate locations can adversely affect other recognised values within the coastal environment.**

#### Explanation

The lakes, rivers and coast are an important recreational resource for the District's residents and visitors, and access to the coast is also of traditional and continuing cultural importance to tangata whenua.

Existing public access to the coast is typically provided in and around the coastal settlements, from public walking and vehicle access points often within open space reserves. Policies 19 & 20 of the NZCPS recognise the public expectation of practical and safe access, and seek to maintain public walking access to the coast and identify opportunities to enhance it, as well as

recognise the need to identify appropriate locations for vehicle access and control use of vehicles on beaches and adjacent public land where they may cause damage, disturbance or danger.

The location and design of any new public access points needs to be compatible with the natural character, natural features and landscapes, indigenous vegetation and sensitive habitats of indigenous fauna (particularly sensitive dune areas), and the amenity values of the lake or river concerned or the coastal environment, as well as mindful of sites and activities of importance to tangata whenua and sites of historical heritage. New public access points also need to be respectful of private property.

## Objectives

**PA-O1** Practical and safe public access to and along the margins of lakes and rivers and the coast is ~~provided maintained and enhanced~~ in a way that respects private property and does not result in adverse effects on natural character, landscape, indigenous biodiversity, historical heritage or cultural values.

**Commented [A1]:** S75.071 Forest & Bird - Report 1C Coastal Environment including Coastal Settlements, Key Issue 4

## Policies

**PA-P1** To ~~require~~ ~~prioritise~~ the establishment of esplanade reserves, esplanade strips or access strips when subdividing land adjacent to priority water bodies shown on the Planning Maps.

**Commented [A2]:** S121.049 Federated Farmers - Report 1D Open Space and Recreation, Public Access, Activities on the Surface of Water, Key Issue 2

**PA-P2** To provide for the waiving of requirements for esplanade areas (esplanade reserves, esplanade strips or access strips) ~~on non-priority water bodies~~, where appropriate.

*Refer SUB-AM9 for guidance as to where a waiver might be considered appropriate.*

**Commented [A3]:** S121.049 Federated Farmers - Report 1D Open Space and Recreation, Public Access, Activities on the Surface of Water, Key Issue 2

**PA-P3** To encourage the provision of appropriate opportunities for public access within the coastal environment when subdividing land adjacent to the coastal marine area.

**PA-P4** To ensure that where new access to the coast is to be provided, that it is practical and safe, and is constructed to avoid, remedy or mitigate damage to:

1. dunes, estuaries and other sensitive natural areas or habitats;
2. geological systems or processes;
3. ecological systems or to indigenous flora and fauna;
4. historical heritage; ~~or~~
5. sites and areas of significance to tangata whenua; ~~or~~
- 5.6. ~~private property~~

**Commented [A4]:** S121.053 Federated Farmers - Report 1D Open Space and Recreation, Public Access, Activities on the Surface of Water, Key Issue 2

## Rules

Provision for the taking of esplanade reserves, esplanade strips and access strips is addressed through the subdivision consent process and the associated provisions in the SUB – Subdivision chapter of the District Plan.

## Methods

Methods for implementing the policies:

### **PA-M1 Identification and Mapping of Priority Waterbodies**

Identifying priority areas on the Planning Maps where esplanade reserves, esplanade strips or access strips are desirable to maintain and enhance public access.

### **PA-M2 Subdivision Assessment Matters for Esplanade Reserves, Esplanade Strips or Access Strips**

Assessment matters for determining whether the taking of esplanade reserves are required to be vested in Council on subdivision, and the situation and condition under which Council may reduce or waive the requirement to provide esplanade reserves.

### **PA-M3 Advocacy and Liaison**

Directly negotiating with landowners, as appropriate, to encourage them to voluntarily establish public access to and along the coast or priority waterbodies.:- informing the public as to the location of public access to rivers, lakes and coast and educating the public that access over private land is only by the permission of the landowner.

**Commented [A5]:** S121.054 Federated Farmers - Report 1D Open Space and Recreation, Public Access, Activities on the Surface of Water, Key Issue 2

### **PA-M4 Annual Plan**

Provision through the Annual Plan for the maintenance and enhancement of public amenities, such as access to the coast and to various waterbodies, from public open space reserves.

## Principal Reasons

Public access to and along the coast, and to the lakes and rivers throughout the District, should be promoted but needs to be carefully managed so as not to compromise other recognised values, particularly within the coastal environment, and be done in a way that respects private property.

## Anticipated Environmental Results

**PA-AER1 The District's lakes and rivers are accessible to the public in appropriate locations and in a way that respects other recognised values and private property.**



**PA-AER2**

**The coast is accessible to the public in appropriate locations and in a manner that minimises disturbance to the foredunes and protects other recognised values within the coastal environment.**

## GENERAL DISTRICT-WIDE MATTERS

### ASW – Activities on the Surface of Water

*The provisions in this chapter override the respective Zone provisions in Part 3 Area-Specific Matters, unless otherwise specified in this chapter.*

#### Introduction

Central Hawke's Bay District Council has the responsibility for managing the control of any actual or potential effects of activities in relation to the surface of water in rivers and lakes (section 31(e) RMA).

Surface water activities include the use of craft, structures and contact recreation on the inland waters of the District: being the surface of lakes, rivers and wetlands. Recreational activities have the potential to cause a variety of adverse effects, including impacts on water quality, conflict between activities, and impacts on ecological systems and habitats.

#### Issues

**ASW-I1                    Activities on the surface of water can affect habitats of flora and fauna, water quality, and people's amenity values.**

##### Explanation

Central Hawke's Bay District Council is responsible for the control of activities on the surface of inland waters where such activities can impact on ecological systems and habitats, and in terms of impacts on amenity values (e.g. excessive noise).

Most surface water activities in the District do not have any adverse effects on the environment. However, there are a few areas where the use of motorised craft may have adverse effects on wildlife or on people's amenity values, being Lake Whatuma, Horseshoe Lake, and upstream of the confluence of the Waipawa and Tukituki Rivers. Consequently, surface water activities in these areas are managed by this Plan.

#### Objectives

**ASW-O1                    To enable the use of the surface of waterbodies for a wide range of recreational, commercial, and cultural activities, while mitigating any adverse effects arising from that use.**

#### Policies

**ASW-P1                    To avoid, remedy or mitigate adverse effects of motorised craft on the surface of water upstream of the confluence of the Tukituki and Waipawa Rivers, on trout habitat and the habitat of indigenous fauna.**

**ASW-P2** To mitigate adverse effects of motorised craft on the surface of Horseshoe Lake and Lake Whatuma, on the habitat of indigenous fauna and on people's amenity values.

## Rule Overview Table

Use/activity	Rule Number
Use of motorised craft on the surface of rivers and lakes	ASW-R1
All other activities on the surface of rivers and lakes not otherwise provided for	ASW-R2

## Rules

It is important to note that in addition to the provisions in this chapter, zone chapters and a number of other Part 2: District-Wide Matters chapters also contain provisions that may be relevant for activities involving activities on the surface of water.

ASW-R1 Use of motorised craft on the surface of rivers and lakes		
On Horseshoe Lake or Lake Whatuma	<b>1. Activity Status: PER</b>  <b>Where the following conditions are met:</b> <ol style="list-style-type: none"> <li>Limited to engines that are less than 5 horsepower.</li> </ol> <p><i>Note: This does not apply to the use of small motorized, remotely-controlled craft, operated by suitably qualified persons, for river monitoring purposes.</i></p>	<b>2. Activity status where compliance not achieved: DIS</b>
Any River Upstream of the Confluence of the Tukituki and Waipawa Rivers	<b>3. Activity Status: DIS</b> <ol style="list-style-type: none"> <li>Where the following conditions are met: N/A</li> </ol> <p><i>Note: This does not apply to the use of small motorized, remotely-controlled craft, operated by suitably qualified persons, for river monitoring purposes.</i></p>	<b>4. Activity status where compliance not achieved: N/A</b>
All Other Rivers and Lakes	<b>5. Activity Status: PER</b>  <b>Where the following conditions are met: N/A</b>	<b>6. Activity status where compliance not achieved: N/A</b>

**ASW-R2 All other activities on the surface of rivers and lakes not otherwise provided for**

<b>All Rivers and Lakes</b>	<b>1. Activity Status: PER</b>  <b>Where the following conditions are met: N/A</b>	<b>2. Activity status where compliance not achieved: N/A</b>
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### Assessment Matters

For Discretionary Activities, Council's assessment is not restricted to these matters, but it may consider them (among other factors).

#### **ASW-AM1 Motorised Craft on Lakes and Rivers**

1. The degree to which motorised craft are compatible with, and will not adversely affect the spawning of trout, or trout habitat generally, or the nesting habitat of any indigenous birdlife.
2. Any adverse effects of the proposed motorised craft in terms of:
  - a. Noise that is incompatible with the levels acceptable in a particular lake or river; and
  - b. Any cumulative effect from the activity in conjunction with other activities in the vicinity.

### Methods

Methods, other than the above rules, for implementing the policies:

#### **ASW-M1 Hawke's Bay Regional Council Navigation & Safety Bylaw 2018**

The Navigation & Safety Bylaws have been adopted by the Hawke's Bay Regional Council under the Local Government Act 1974 and apply to all waterbodies in the Central Hawke's Bay District. The bylaws regulate the control and use or management of vessels, prevent nuisances arising from the use of vessels and the actions of persons and things on or in the water, amongst other things. It also regulates the speed of vessels relative to other vessels, to people in the water, and to the shore or any structure.

#### **ASW-M2 Harbourmaster**

The Hawke's Bay Regional Harbourmaster's role is to oversee the safety of recreational boating (including kayaks, paddleboards, dinghies, and jet ski's etc) that use the District's coast and rivers.

#### **ASW-M3 Hawke's Bay Regional Coastal Environment Plan**

Hawke's Bay Regional Council is responsible for controlling activities in relation to the surface of the water within the coastal marine area across the Region.

## Principal Reasons

The principal reasons for adopting the policies and methods:

The upper areas of the Waipawa and Tukituki river catchments are important ecologically, and limits on motorised craft are appropriate to avoid or mitigate adverse effects on the habitat of trout and habitat of indigenous fauna. Horseshoe Lake and Lake Whatuma similarly provide important habitat and are also subject to amenity impacts for those residing nearby and other users of these lakes.

## Anticipated Environmental Results

The environmental results anticipated from the policies and methods:

**ASW-AER1**      **A wide range of recreational, commercial and cultural activities are able to utilise the surface of the District's rivers and lakes.**

**ASWWR-AER2**      **Few conflicts arise between surface of water activities and adjoining activities.**

**ASW-AER3**      **Trout and other wildlife habitats are protected from motorised craft activities on the surface of water.**

**Commented [A1]:** S48.012 Jet Boating New Zealand – Report 1D Open Space and Recreation, Public Access, Activities on the Surface of Water, Key Issue 3

## **Appendix B – Summary of recommendations on Submissions**

## Table: Summary of recommended decisions on submissions and further submissions

### Open Space and Recreation

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer's Recommendation (as per s42A report unless otherwise stated)	Panel Recommendation	Amendments to Proposed Plan?
S11.021	Hawke's Bay Regional Council	OSR - Open Space and Recreation	No changes.	Accept	Accept	No
S81.077	Horticulture New Zealand	OSR-P2	Retain OSR-P2.	Accept	Accept	No

### Public Access

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer's Recommendation (as per s42A report unless otherwise stated)	Panel Recommendation	Amendments to Proposed Plan?
S11.022	Hawke's Bay Regional Council	PA - Public Access	No changes.	Accept	Accept in part (Subject to amendments from other submissions)	No
S64.079	Department of Conservation	PA-O1	Retain PA-O1.	Accept	Accept (Subject to amendments from other submissions)	No
FS9.362	Forest & Bird		Allow	Accept	Accept	
S64.080	Department of Conservation	PA-P1	Retain PA-P1.	Accept in part (subject to amendments from other submissions)	Accept in part	No
FS9.363	Forest & Bird		Allow	Accept in part (subject to amendments from other submissions)	Accept in part	
S64.081	Department of Conservation	PA-P3	Retain PA-P3.	Accept	Accept	No
FS9.364	Forest & Bird		Allow	Accept	Accept	
S64.082	Department of Conservation	PA-P4	Retain PA-P4.	Accept	Accept in part	No
FS9.365	Forest & Bird		Allow	Accept	Accept in part	
S121.048	Federated Farmers	PA-O1	Retain PA-O1 as proposed.	Accept	Accept in part (subject to amendments from other submissions)	
FS9.48	Forest & Bird		Disallow	Reject		
S121.049	Federated Farmers	PA-P1	Amend PA-P1 as follows: 'To require <b>provide</b> for the establishment of esplanade reserves, esplanade strips or access strips when subdividing land adjacent to priority water bodies shown	Accept in part	Accept in part	Yes

## Proposed Central Hawke's Bay District Plan

## Panel Report 1D: Open Space and Recreation Public Access/ Activities on the Surface of Water

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer's Recommendation (as per s42A report unless otherwise stated)	Panel Recommendation	Amendments to Proposed Plan?
			on the Planning Maps, <u>except when a waiver would be appropriate.</u>			
FS9.49	Forest & Bird		Disallow	Reject		
S121.050	Federated Farmers	PA-P2	Retain PA-P2 as proposed.	Accept in part	Accept in part	Yes
FS9.50	Forest & Bird		Disallow	Reject	Reject	
S121.051	Federated Farmers	PA-XX (new policy)	Add a new policy in the 'PA - Public Access' chapter in the Proposed Plan as follows: 'Compensation will be payable for esplanades reserves and strips vested in accordance with Section 237E and 237F of the RMA, unless agreed otherwise.'	Reject	Reject	No
FS9.51	Forest & Bird		Disallow	Accept	Accept	
S121.052	Federated Farmers	PA-P3	Retain PA-P3 as proposed.	Accept	Accept	No
FS9.52	Forest & Bird		Disallow	Reject	Reject	
S121.053	Federated Farmers	PA-P4	Amend PA-P4 as follows: 'To ensure that where new access to the coast is to be provided, that it is practical and safe, and is constructed to avoid, remedy or mitigate damage to: 1. ... ... <b>6. Private property.</b> '	Reject	Accept	Yes
FS9.53	Forest & Bird		Disallow	Accept	Reject	
S121.054	Federated Farmers	PA-XX (new policy)	Add a new policy in the 'PA - Public Access' chapter in the Proposed Plan as follows: 'To provide information and education to the public regarding where public access is available, and that access over private land is only by the permission of the landowner.'	Accept in part	Accept in part	Yes
FS9.54	Forest & Bird		Disallow	Reject	Reject	
S125.065	Ngā hapū me ngā marae o Tamatea (Nga hapu me nga marae o Tamatea)	PA-I1	Retain PA-I1 as notified.	Accept	Accept	No
S125.066	Ngā hapū me ngā marae o Tamatea (Nga hapu me nga marae o Tamatea)	PA-O1	Retain PA-O1 as notified.	Accept	Accept (subject to amendments from other submissions)	No
S125.067	Ngā hapū me ngā marae o Tamatea (Nga hapu me nga marae o Tamatea)	PA - Policies	Redraft the policies in 'PA - Policies' to more fully and accurately reflect the history, relationships and	Accept in part	Accept in part	Yes



Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer's Recommendation (as per s42A report unless otherwise stated)	Panel Recommendation	Amendments to Proposed Plan?
	hapu me nga marae o Tamatea)		whakapapa of Māori in the rohe. It needs to meet mana whenua aspirations to access key sites of significance and protect and provide for freshwater, coastal and cultural enhancement. Outside of these uses access should be managed to protect the cultural safety of freshwater and coastal waterbodies. The amended wording should be drafted collaboratively with the mana whenua of the District.	(Hearing Stream 4 – Right of reply dated 9 December 2022)		
FS25.73	Federated Farmers		Disallow	Accept	Accept in part	

## Activities on the Surface of Water

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer's Recommendation (as per s42A report unless otherwise stated)	Panel Recommendations	Amendments to Proposed Plan?
S11.027	Hawke's Bay Regional Council	ASW - Activities on the Surface of Water	No changes.	Accept	Accept (subject to amendments from submissions)	No
S48.001	Jet Boating New Zealand	ASW-I1	Retain ASW-I1.	Accept	Accept	No
S48.002	Jet Boating New Zealand	ASW-O1	Retain ASW-O1.	Accept	Accept	No
S48.003	Jet Boating New Zealand	ASW-P1	Retain ASW-P1.	Accept	Accept	No
S48.004	Jet Boating New Zealand	ASW-P2	Retain ASW-P2.	Accept	Accept	No
S48.005	Jet Boating New Zealand	ASW-R1	Amend ASW-R1(3) as follows: <del>'Any River Upstream of the Confluence of the Tukituki and Waipawa Rivers</del> 3. Activity Status: DISWhere the following conditions are met: N/A Tukituki River main stem above the Waipawa River confluence	Accept in part (Hearing Stream 1 Right-of-Reply 8 April 2022)	Reject	No

Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer's Recommendation (as per s42A report unless otherwise stated)	Panel Recommendations	Amendments to Proposed Plan?
			<p>Activity Status: PER Where the following performance standards are met:</p> <p>1) Non-commercial 2) Excluding July, August and September</p> <p>Activity status where compliance not achieved: DIS</p> <p>Waipawa River main stem above the Tukituki confluence</p> <p>Activity Status: PER Where the following performance standards are met: -</p> <p>1) Non-commercial 2) Excluding July, August and September</p> <p>Activity status where compliance not achieved: DIS</p> <p>Note: This does not apply to the use of small motorized, remotely-controlled craft, operated by suitably qualified persons, for river monitoring purposes.'</p>			
S48.006	Jet Boating New Zealand	ASW-R2	<p>Amend ASW-R2(1) as follows:</p> <p>'1. Activity Status: PER</p> <p>Where the following conditions are met: <del>N/A</del> <b>Non-commercial.</b>'</p>	Reject	Reject	No
S48.007	Jet Boating New Zealand	ASW-AM1	Retain ASW-AM1.	Accept	Accept	No
S48.008	Jet Boating New Zealand	ASW-M1	Retain ASW-M1.	Accept	Accept	No
S48.009	Jet Boating New Zealand	ASW-M2	Retain ASW-M2.	Accept	Accept	No
S48.010	Jet Boating New Zealand	ASW-AER1	Retain ASW-AER1.	Accept	Accept	No
S48.011	Jet Boating New Zealand	ASW-AER2	<p>Correct typo as follows:</p> <p>'<del>AWR</del> <b>ASW</b>-AER2'</p>	Accept	Accept	Yes

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Submission Point	Submitter/Further Submitter Name	Plan Provision	Summary of Decision Requested	Officer's Recommendation (as per s42A report unless otherwise stated)	Panel Recommendations	Amendments to Proposed Plan?
S48.012	Jet Boating New Zealand	ASW-AER3	Retain ASW-AER3.	Accept	Accept	No